

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA

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Department of Law & Judiciary

Legal Affairs Division

#### Notification

10-3-88/LA(Part)

The Direct Tax Laws (Amendment) Act, 1989 (Central Act 3 of 1989) which has been passed by Parliament and assented to by the President of India on 15-3-1989 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 16-3-1989 is hereby published for the general information of the public.

*P. V. Kadnekar*, Under Secretary (Drafting).

Panaji, 2nd August, 1989.

The Direct Tax Laws (Amendment) Act, 1989

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## The Direct Tax Laws (Amendment) Act, 1989

AN

ACT

*further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Direct Tax Laws (Amendment) Act, 1987.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

## CHAPTER I

## Preliminary

1. *Short title and commencement.*— (1) This Act may be called the Direct Tax Laws (Amendment) Act, 1989.

(2) Save as otherwise provided in this Act, sections 2 to 31 and 33 to 95 shall come into force on the 1st day of April, 1989.

## CHAPTER II

## Amendments to the Income-tax Act, 1961

2. *Amendment of section 2.*— In section 2 of the Income-tax Act, 1961 <sup>43 of 1961.</sup> (hereinafter in this Chapter referred to as the Income-tax Act),—

(a) in clause (24),—

(i) in sub-clause (iia) [as amended by section 3 of the Direct Tax Laws (Amendment) Act, 1987], for the words, brackets, letters and figures "or by a trust or institution of national importance referred to in clause (d) of sub-section (1) of section 80F", the words, brackets, figures and letter "or by an association or institution referred to in clause (21) or clause (23), or by a fund or trust or institution referred to in sub-clause (iv) or sub-clause (v) of clause (23C), of section 10" shall be substituted; <sup>4 of 1988.</sup>

(ii) after sub-clause (iii), the following sub-clauses shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:—

"(iiia) any special allowance or benefit, other than perquisite included under sub-clause (iii), specifically granted to the

assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;

(iiib) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living;"

(b) in clause (25) [as substituted by clause (k) of section 3 of the Direct Tax Laws (Amendment) Act, 1987], <sup>4 of 1988.</sup> the words, brackets and figure "sub-section (1) of" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988;

(c) in clause (37A) [as amended by clause (o) of section 3 of the Direct Tax Laws (Amendment) Act, 1987],— <sup>4 of 1988.</sup>

(A) in sub-clause (i), the words, figures and letter "or section 167A", wherever they occur, shall be omitted;

(B) in sub-clause (ii), the figures and letter "194E" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988.

3. *Amendment of section 3.*— In section 3 of the Income-tax Act [as substituted by section 4 of the Direct Tax Laws (Amendment) Act, 1987], in <sup>4 of 1988.</sup> sub-section (2), after the proviso, the following provisos shall be inserted, namely:—

'Provided further that in the case of a business or profession newly set up, or a source of income newly coming into existence on or after the 1st day of April, 1987 but before the 1st day of April, 1988 and where the accounts in relation to such business or profession or source of income have not been made up to the 31st day of March, 1988, the "previous year" in relation to the assessment year commencing on the 1st day of April, 1989, shall be the period beginning with the date of setting up of the business or profession or, as the case

may be, the date on which the source of income newly comes into existence and ending on the 31st day of March, 1989:

Provided also that where the assessee has adopted one or more periods as the "previous year" in relation to the assessment year commencing on the 1st day of April, 1988, for any source or sources of his income, in addition to the business or profession or source of income referred to in the second proviso, the previous year in relation to the assessment year commencing on the 1st day of April, 1989, shall be reckoned separately in the manner aforesaid in respect of each such source of income, and the longer or the longest of the periods so reckoned shall be the previous year in relation to the said assessment year.'

4. *Amendment of section 10.*— In section 10 of the Income-tax Act,—

(a) after clause (6B), the following clause shall be inserted, namely:—

"(6C) any income arising to such foreign company, as the Central Government may, by notification in the Official Gazette, specify in this behalf, by way of fees for technical services received in pursuance of an agreement entered into with that Government for providing services in or outside India in projects connected with security of India;"

(b) in clause (15), after sub-clause (iic) [as inserted by section 4 of the Finance Act, 1988], the following 26 of 1988. sub-clause shall be inserted, namely:—

'(iic) interest on such bonds, as the Central Government may, by notification in the Official Gazette, specify, arising to—

(a) a non-resident Indian, being an individual owning the bonds; or

(b) any individual owning the bonds by virtue of being a nominee or survivor of the non-resident Indian; or

(c) any individual to whom the bonds have been gifted by the non-resident Indian:

Provided that the aforesaid bonds are purchased by a non-resident Indian in foreign exchange and the interest and principal received in respect of such bonds, whether on their maturity or otherwise, is not allowable to be taken out of India:

Provided further that where an individual, who is a non-resident Indian in any previous year in which the bonds are acquired, becomes a resident in India in any subsequent year, the provisions of this sub-clause shall continue to apply in relation to such individual:

Provided also that in a case where the bonds are encashed in a previous year prior to their maturity by an individual who is so entitled, the provisions of this sub-clause shall not apply to such individual in relation to the assessment year relevant to such previous year.

*Explanation.*— For the purposes of this sub-clause, the expression "non-resident Indian" shall have the meaning assigned to it in clause (e) of section 115C;

(c) for clause (21) [as it stood immediately before its omission by clause (k) of section 6 of the Direct Tax Laws (Amendment) Act, 1987], 4 of 1988. the following clause shall be substituted with effect from the 1st day of April, 1990, namely:—

'(21) any income of a scientific research association for the time being approved for the purpose of clause (ii) of sub-section (1) of section 35:

Provided that the scientific research association—

(a) Applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established, and the provisions of sub-section (2) and sub-section (3) of section 11 shall apply in relation to such accumulation subject to the following modifications, namely:—

(i) in sub-section (2),—

(1) the words, brackets, letters and figure "referred to in clause (a) or clause (b) of sub-section (1) read with the

*Explanation* to that sub-section" shall be omitted;

(2) for the words "to charitable or religious purposes", the words "for the purposes of scientific research" shall be substituted;

(3) the reference to "Assessing Officer" in clause (a) thereof shall be construed as a reference to the "prescribed authority" referred to in clause (ii) of sub-section (1) of section 35;

(ii) in sub-section (3), in clause (a), for the words "charitable or religious purposes", the words "the purposes of scientific research" shall be substituted; and

(b) does not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify) for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:

Provided further that nothing contained in this clause shall apply in relation to any income of the scientific research association, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of accounts are maintained by it in respect of such business;

(d) for clause (23) [as it stood immediately before its omission by clause (k) of section 6 of the Direct Tax Laws (Amendment) Act, 1987], 4 of 1988, the following clause shall be substituted with effect from the 1st day of April, 1990, namely:—

'(23) any income of an association or institution established in India which may be notified by the Central Government in the Official Gazette having regard to the fact that the association or institution has as its object the control, supervision, regulation or encouragement in India of the games of cricket, hockey, football, tennis or such other games or sports as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the association or institution shall make an application in the prescribed form and manner to the prescribed authority for the purpose of grant of the exemption, or continuance thereof, under this clause:

Provided further that the Central Government may, before notifying the association or institution under this clause call for such documents (including audited annual accounts) or information from the association or institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the association or institution and that Government may also make such inquiries as it may deem necessary in this behalf:

Provided also that the association or institution,—

(a) applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established and the provisions of sub-section (2) and sub-section (3) of section 11 shall apply in relation to such accumulation subject to the following modifications, namely:—

(i) in sub-section (2),

(1) the words, brackets, letters and figure "referred to in clause (a) or clause (b) of sub-section (1) read with the *Explanation* to that sub-section" shall be omitted;

(2) for the words "to charitable or religious purposes", the words "for the purposes of games or sports" shall be substituted;

(3) the reference to "Assessing Officer" in clause (a) thereof shall be construed as a reference to the "prescribed authority" referred to in the first proviso to this clause;

(ii) in sub-section (3), in clause (a), for the words "charitable or religious purposes", the words "the purposes of games or sports" shall be substituted; and

(b) does not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board

may, by notification in the Official Gazette, specify) for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; and

(c) does not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it:

Provided also that the exemption under this clause shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 1990:

Provided also that nothing contained in this clause shall apply in relation to any income of the association or institution, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of accounts are maintained by it in respect of such business:

Provided also that any notification issued by the Central Government under this clause in relation to any association or institution shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification;:

(e) in clause (23C) [as it stood immediately before its amendment by section 6 of the Direct Tax Laws (Amendment) Act, 1987], for 4 of 1988, sub-clauses (iv) and (v), the following sub-clauses shall be substituted with effect from the 1st day of April, 1990, namely:—

"(iv) any other fund or institution established for charitable purposes which may be notified by the Central Government in the Official Gazette, having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States; or

(v) any trust (including any other legal obligation) or institution wholly for public religious purposes or wholly for public

religious and charitable purposes, which may be notified by the Central Government in the Official Gazette, having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for the objects thereof:

Provided that the fund or trust or institution referred to in sub-clause (iv) or sub-clause (v) shall make an application in the prescribed form and manner to the prescribed authority for the purpose of grant of the exemption, or continuance thereof, under sub-clause (iv) or sub-clause (v):

Provided further that the Central Government may, before notifying the fund or trust or institution under sub-clause (iv) or sub-clause (v), call for such documents (including audited annual accounts) or information from the fund or trust or institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the fund or trust or institution and that Government may also make such inquiries as it may deem necessary in this behalf:

Provided also that the fund or trust or institution referred to in sub-clause (iv) or sub-clause (v)—

(a) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established; and

(b) does not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify) for any period during the previous years otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:

Provided also that the exemption under sub-clause (iv) or sub-clause (v) shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 1990:

Provided also that nothing contained in sub-clause (iv) or sub-clause (v) shall

apply in relation to any income of the fund or trust or institution, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of accounts are maintained by it in respect of such business:

Provided also that any notification issued by the Central Government under sub-clause (iv) or sub-clause (v) shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification;"

(f) in clause (23D), the words " , including the condition that at least ninety per cent. of such income shall be distributed to the holders of its units every year," shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988.

5. *Amendment of section 11.*— In section 11 of the Income-Tax Act [as it stood immediately before its omission by section 7 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1),—

(i) after clause (c) and before the *Explanation*, the following clause shall be inserted, namely:—

"(d) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution;"

(ii) in the *Explanation*, in clause (2),—

(1) the words, brackets and figure "or sub-section (2)" shall be omitted;

(2) the words " , whether fixed originally or on extension" shall be omitted;

(b) in sub-section (5),—

(i) in clause (vii), for the words and figures "Government company as defined in section 617 of the Companies Act, 1956", the words 1 of 1956. "public sector company" shall be substituted;

(ii) after clause (xi), the following clause shall be inserted, namely:—

"(xii) any other form or mode of investment or deposit as may be prescribed."

6. *Amendment of section 32A.*— In section 32A of the Income-tax Act,—

(a) in sub-section (1),—

(i) for the words "Provided that", the following shall be substituted, namely:—

"Provided that in respect of a ship or an aircraft or machinery or plant specified in sub-section (8B), this sub-section shall have effect as if for the words "twenty-five per cent.", the words "twenty per cent." had been substituted:

Provided further that;

(ii) the following *Explanation* shall be added at the end, namely:—

*Explanation.*— For the purposes of this sub-section, "actual cost" means the actual cost of the ship, aircraft, machinery or plant to the assessee as reduced by that part of such cost which has been met out of the amount released to the assessee under sub-section (6) of section 32AB.;

(b) in sub-section (2), after clause (b), the following proviso shall be inserted, namely:—

"Provided that nothing contained in clauses (a) and (b) shall apply in relation to

(i) a new ship or new aircraft acquired, or

(ii) any new machinery or plant installed,

after the 31st day of March, 1987 but before the 1st day of April, 1988, unless such ship or aircraft is acquired or such machinery or plant is installed in the circumstances specified in clause (a) of sub-section (8B) and the assessee furnishes evidence to the satisfaction of the Assessing Officer as specified in that clause;"

(c) in sub-section (2C), after the words, figures and letters "the 31st day of May, 1983", the words, figures and letters "but before the 1st day of April, 1987" shall be inserted;

(d) in sub-section (4), in clause (ii), in sub-clause (a), for the words "the proviso", the words "the second proviso" shall be substituted;

(e) in sub-section (5), in clause (b), for the words "the proviso", the words "the second proviso" shall be substituted;

(f) for sub-section (8B), the following sub-sections shall be substituted, namely:—

"(8B) Notwithstanding anything contained in sub-section (8) or the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G. S. R. 870 (E), dated the 12th June, 1986, issued thereunder, the provisions of this section shall apply in respect of,—

(a) (i) a new ship or new aircraft acquired after the 31st day of March, 1987 but before the 1st day of April, 1988, if the assessee furnishes evidence to the satisfaction of the Assessing Officer that he had, before the 12th day of June, 1986, entered into a contract for the purchase of such ship or aircraft with the builder or manufacturer or owner thereof, as the case may be;

(ii) any new machinery or plant installed after the 31st day of March, 1987 but before the 1st day of April, 1988, if the assessee furnishes evidence to the satisfaction of the Assessing Officer that before the 12th day of June, 1986, he had purchased such machinery or plant or had entered into a contract for the purchase of such machinery or plant with the manufacturer or owner of, or a dealer in, such machinery or plant, or had, where such machinery or plant has been manufactured in an undertaking owned by the assessee, taken steps for the manufacture of such machinery or plant:

Provided that nothing contained in sub-section (1) shall entitle the assessee to claim deduction in respect of a ship or aircraft or machinery or plant referred to in this clause in any previous year except the previous year relevant to the assessment year commencing on the 1st day of April, 1989;

(b) a new ship or new aircraft acquired or any new machinery or plant installed after the 31st day of March, 1988, but before such date as the Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, specify in this behalf.

(8C) Subject to the provisions of clause (ii) of sub-section (3), where a deduction has been allowed to an assessee under sub-section (1) in any assessment year, no deduction shall be allowed to the assessee under section 32AB in the said assessment year (hereinafter referred to as the initial assessment year) and a block of further period of four years beginning with the assessment year immediately succeeding the initial assessment year."

7. *Amendment of section 32AB.*— In section 32AB of the Income-tax Act, for sub-section (10), the following sub-section shall be substituted, namely:—

"(10) Where a deduction has been allowed to an assessee under this section in any assessment year, no deduction shall be allowed to the assessee under sub-section (1) of section 32A in the said assessment year (hereinafter referred to as the initial assessment year) and a block of further period of four years beginning with the assessment year immediately succeeding the initial assessment year."

8. *Amendment of section 35.*— In section 35 of the Income-tax Act [as it stood immediately before its omission by section 10 of the Direct Tax Laws (Amendment) Act, 1987], in sub-section 4 of 1988. (1),—

(a) in clause (ii), in the proviso, after the words "prescribed authority", the words "by notification in the Official Gazette" shall be inserted;

(b) in clause (iii), after the words "prescribed authority", the words "by notification in the Official Gazette" shall be inserted;

(c) the following provisos shall be inserted at the end, namely:—

"Provided that the scientific research association, university, college or other



institution referred to in clause (ii) or clause (iii) shall make an application in the prescribed form and manner to the prescribed authority for the purpose of grant of approval, or continuance thereof, under clause (ii) or, as the case may be, clause (iii):

Provided further that the prescribed authority may, before granting approval under clause (ii) or clause (iii), call for such documents (including audited annual accounts) or information from the scientific research association, university, college or other institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the scientific research association, university, college or other institution and that authority may also make such inquiries as it may deem necessary in this behalf:

Provided also that any notification issued by the prescribed authority under clause (ii) or clause (iii) shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification."

9. *Amendment of section 40.*— In section 40 of the Income-tax Act, after clause (b) [as it stood immediately before its substitution by clause (ii) of section 13 of the Direct Tax Laws (Amendment) Act, 1987], the following clause shall be inserted, namely:— 4 of 1988.

'(ba) in the case of an association of persons or body of individuals (other than a company or a cooperative society or a society registered under the Societies Registration Act, 1860 21 of 1860. or under any law corresponding to that Act in force in any part of India), any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such association or body to a member of such association or body.

*Explanation 1.*— Where interest is paid by an association or body to any member thereof who has also paid interest to the association or body, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the

association or body to the member exceeds the payment of interest by the member to the association or body.'

*Explanation 2.*— Where an individual is a member of an association or body on behalf, or for the benefit of any other person (such member and the other person being hereinafter referred to as "member in a representative capacity" and "person so represented", respectively),—

(i) interest paid by the association or body to such individual or by such individual to the association or body otherwise than as member in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the association or body to such individual or by such individual to the association or body as member in a representative capacity and interest paid by the association or body to the person so represented or by the person so represented to the association or body, shall be taken into account for the purposes of this clause.

*Explanation 3.*— Where an individual is a member of an association or body otherwise than as member in a representative capacity, interest paid by the association or body to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.'

10. *Amendment of section 44AC.*— In section 44AC of the Income-tax Act (as inserted by section 15 of the Finance Act, 1988), in sub-section (1), in clause 26 of 1988. (a), the following proviso shall be inserted, namely:—

"Provided that nothing contained in this clause shall apply to a buyer where the goods are not obtained by him by way of auction and where the sale price of such goods to be sold by the buyer is fixed by or under any State Act;"

11. *Amendment of section 64.*— In section 64 of the Income-tax Act, in sub-section (1) [as it stood immediately before its amendment by section 17 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in clauses (v) and (vii), the brackets and words "(not being a married daughter)" shall be omitted;

(b) for *Explanation 3*, the following *Explanation* shall be substituted, namely:—

*Explanation 3.*— For the purposes of clauses (iv), (v) and (vi), where the assets transferred directly or indirectly by an individual to his spouse or minor child or son's wife or son's minor child (hereafter in this *Explanation* referred to as "the transferee") are invested by the transferee in any business, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business, as the value of the assets aforesaid as on the 1st day of the previous year bears to the total investment in the business by the transferee as on the said day, shall be included in the total income of the individual in that previous year.

12. *Insertion of new section 67A.*— After section 67 of the Income-tax Act [as it stood immediately before its substitution by section 18 of the Direct Tax Laws (Amendment) Act, 1987], the 4 of 1988. following section shall be inserted, namely:—

*67A. Method of computing a member's share in the income of association of persons or body of individuals.*— (1) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known (other than a company or a cooperative society or a society registered under the Societies Registration Act, 1860 or 21 of 1860. under any law corresponding to that Act in force in any part of India), whether the net result of the computation of the total income of such association or body is a profit or a loss, his share (whether a net profit or net loss) shall be computed as follows, namely:—

(a) any interest, salary, bonus, commission or remuneration by whatever name called, paid to any member in respect of the previous year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportions in

which they are entitled to share in the income of the association or body;

(b) where the amount apportioned to a member under clause (a) is a profit, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be added to that amount, and the result shall be treated as the member's share in the income of the association or body;

(c) where the amount apportioned to a member under clause (a) is a loss, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be adjusted against that amount, and the result shall be treated as the member's share in the income of the association or body.

(2) The share of a member in the income or loss of the association or body, as computed under sub-section (1), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.

(3) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the association or body, be deducted from his share.

*Explanation.*— In this section, "paid" has the same meaning as is assigned to it in clause (2) of section 43.

13. *Amendment of section 80C.*— In section 80C of the Income-tax Act,—

(a) in sub-section (2),—

(i) in clause (d), the words "or ten thousand rupees, whichever is less" shall be omitted;

(ii) in clause (h), in sub-section (ii), in item (c), in sub-item (6), after the words "public company", the words "or a public sector company or a University established by law or a college affiliated to such University or a local authority" shall be inserted;

(b) in sub-section (8), after clause (c), the following clause shall be inserted, namely:—

'(d) "contribution" to any fund shall not include any sums in repayment of loan.'

14. *Amendment of Section 80CC.*— In section 80CC of the Income-tax Act, in sub-section (3), in clause (a), after sub-clause (ii), the following sub-clause shall be inserted, namely:—

"(iii) a hotel approved by the prescribed authority;"

15. *Amendment of Section 80HHC.*— In section 80HHC of the Income-tax Act (as amended by section 24 of the Finance Act, 1988),—

26 of 1988.

(a) in sub-sections (1) and (1A), for the words "whole of the income", the word "profits" shall be substituted;

(b) in sub-section (4), for the words "net foreign exchange realisation as determined in accordance with the Import and Export Policy of the Government of India for the relevant period", the words "export turnover" shall be substituted;

(c) in sub-section (4A), in clause (a), for the word "income", the word "profits" shall be substituted;

(d) in the *Explanation*,—

(i) clause (c) shall be omitted;

(ii) clauses (d) and (e) shall be renumbered as clauses (c) and (d), respectively.

16. *Insertion of new section 80HHD.*— After section 80HHC of the Income-tax Act, the following section shall be inserted, namely:—

'80HHD. *Deduction in respect of earnings in convertible foreign exchange.*— (1) where an assessee, being an Indian company or a person (other than a company) resident in India, is engaged in the business of a hotel, or of a tour operator, approved by the prescribed authority in this behalf or of a travel agent, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the

assessee, a deduction of a sum equal to the aggregate of—

(a) fifty per cent. of the profits derived by him from services provided to foreign tourists; and

(b) so much of the amount out of the remaining profits referred to in clause (a) as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account to be utilised for the purposes of the business of the assessee in the manner laid down in sub-section (4).

(2) This section applies only to services provided to foreign tourists the receipts in relation to which are received by the assessee in convertible foreign exchange.

(3) For the purposes of sub-section (1), profits derived from services provided to foreign tourists shall be,—

(a) in a case where the business carried on by the assessee consists exclusively of services provided to foreign tourists resulting in receipts in convertible foreign exchange, the profits of the business as computed under the head "Profits and gains of business or profession";

(b) in a case where the business carried on by the assessee does not consist exclusively of services provided to foreign tourists resulting in receipts in convertible foreign exchange, the amount which bears to the profits of the business (as computed under the head "Profits and gains of business or profession") the same proportion as the receipts in convertible foreign exchange bear to the total receipts of the business carried on by the assessee.

(4) The amount credited to the reserve account under clause (b) of sub-section (1), shall be utilised by the assessee before the expiry of a period of five years next following the previous year in which the amount was credited for the following purposes, namely:—

(a) construction of new hotels approved by the prescribed authority in this behalf or expansion of facilities in existing hotels already so approved;

(b) purchase of new cars and new coaches by tour operators already so approved or by travel agents;

(c) purchase of sports equipment for mountaineering, trekking, golf, river-rafting and other sports in or on water;

(d) construction of conference or convention centres;

(e) provision of such new facilities for the growth of Indian tourism as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any of the activities referred to in clauses (a) to (e) would result in creation of any asset owned by the assessee outside India, such asset should be created only after obtaining prior approval of the prescribed authority.

(5) Where any amount credited to the reserve account under clause (b) of sub-section (1),—

(a) has been utilised for any purpose other than those referred to in sub-section (4), the amount so utilised; or

(b) has not been utilised in the manner specified in sub-section (4), the amount not so utilised,

shall be deemed to be the profits,—

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b), in the year immediately following the period of five years specified in sub-section (4),

and shall be charged to tax accordingly.

(6) The deduction under sub-section (1) shall not be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed on the basis of the amount of convertible foreign exchange received by the assessee for services provided by him to the foreign tourists.

*Explanation.*— For the purposes of this section,—

(a) "travel agent" means a travel agent or other person (not being an airline or a shipping company) who holds a valid licence granted by the Reserve Bank of India under section 32 of the Foreign Exchange Regulation Act, 1973; 46 of 1973.

(b) "convertible foreign exchange" shall have the meaning assigned to it in clause (a) of the *Explanation* to section 80HHC;

(c) "services provided to foreign tourists" shall not include services by way of sale in any shop owned or managed by the person who carries on the business of a hotel or of a tour operator or of a travel agent.'

17. *Amendment of section 86.*— In section 86 of the Income-tax Act [as it stood immediately before its substitution by section 29 of the Direct Tax Laws (Amendment) Act, 1987], for clause (v), 4 of 1988. the following clause shall be substituted, namely:—

"(v) if the assessee is a member of an association of persons or a body of individuals (other than a company or a cooperative society or a society registered under the Societies Registration Act, 1860 or under any 21 of 1860. law corresponding to that Act in force in any part of India), his share in the income of the association or body computed in the manner provided in section 67A:

Provided that,—

(a) where the association or body is chargeable to tax on its total income at the maximum marginal rate or any higher rate, under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income;

(b) in any other case, the share of a member computed as aforesaid shall form part of his total income:

Provided further that where no income-tax is chargeable on the total income of the

association or body, the share of a member computed as aforesaid shall be chargeable to tax as part of his total income and nothing contained in this section shall apply to the case."

18. *Amendment of section 115A.*— In section 115A of the Income-tax Act, in sub-section (1),—

(i) after clause (aa), the following clause shall be inserted, namely:—

"(ab) income received in respect of units, purchased in foreign currency, of a Mutual Fund specified under clause (23D) of section 10; or";

(ii) after clause (ia), the following clause shall be inserted, namely:—

"(ib) the amount of income-tax calculated on the income in respect of units referred to in clause (ab), if any, included in the total income, at the rate of twenty-five per cent.;";

(iii) in the *Explanation*,—

(A) clause (b) shall be omitted;

(B) clause (bb) shall be re-lettered as clause (b).

19. *Amendment of section 115J.*— In section 115J of the Income-tax Act, in sub-section (1),—

(a) in the opening portion, after the words "a company", the brackets and words "(other than a company engaged in the business of generation or distribution of electricity)" shall be inserted;

(b) in the *Explanation*,—

(i) in clause (b), after the words "any reserves", the brackets, words, figures and letters "(other than the reserves specified in section 80HHD)" shall be inserted;

(ii) in clause (f), for the word "applies," the words "applies; or" shall be substituted;

(iii) after clause (f), the following clauses shall be inserted, namely:—

"(g) the amount withdrawn from the reserve account under section 80HHD,

where it has been utilised for any purpose other than those referred to in sub-section (4) of that section; or

(h) the amount credited to the reserve account under section 80HHD, to the extent that amount has not been utilised within the period specified in sub-section (4) of that section,";

(iv) for the words "if any such amount is debited", the words, brackets and letters "if any amount referred to in clauses (a) to (f) is debited or, as the case may be, the amount referred to in clauses (g) and (h) is not credited" shall be substituted;

(v) in clause (i), after the words "from reserves", the brackets, words, figures and letters "(other than the reserves specified in section 80HHD)" shall be inserted;

(vi) clause (iii) shall be renumbered as clause (iv) and before clause (iv) as so renumbered, the following clause shall be inserted, namely:—

"(iii) the amounts [as arrived at after increasing the net profit by the amount referred to in clauses (a) to (f) and reducing the net profit by the amounts referred to in clauses (i) and (ii)] attributable to the business, the profits from which are eligible for deduction under section 80HHC or section 80HHD; so, however, that such amounts are computed in the manner specified in sub-section (3) or sub-section (3A) of section 80HHC or sub-section (3) of section 80HHD, as the case may be; or".

20. *Amendment of section 139.*— In section 139 of the Income-tax Act [as amended by section 42 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) for sub-section (4A), the following sub-section shall be substituted, namely:—

"(4A) Every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes, or of income being voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2, shall, if the total income in respect of which he is assessable

as a representative assessee (the total income for this purpose being computed under this Act without giving effect to the provisions of sections 11 and 12) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).";

(b) in sub-section (10), in the proviso, for clause (d), the following clause shall be substituted, namely:—

"(d) a return of a person who has claimed exemption of income from property held for charitable or religious purposes;"

21. *Amendment of section 143.*— In section 143 of the Income-tax Act [as substituted by section 48 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1), in clause (a), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that an intimation for any tax or interest due under this clause shall not be sent after the expiry of two years from the end of the assessment year in which the income was first assessable.";

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

'(1A) (a) Where, in the case of any person, the total income, as a result of the adjustments made under the proviso to clause (a) of sub-section (1), exceeds the total income declared in the return by any amount, the Assessing Officer shall,—

(i) further increase the amount of tax payable under sub-section (1) by an additional income-tax calculated at the rate of twenty per cent. of the tax payable on such excess amount and specify the additional income-tax in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1);

(ii) where any refund is due under sub-section (1), reduce the amount of such refund by an amount equivalent to the additional income-tax calculated under sub-clause (i).

(b) Where as a result of an order under section 154 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which additional income-tax is payable under clause (a) has been increased or reduced, as the case may be, the additional income-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional income-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand under section 156;

(ii) in a case where the additional income-tax is reduced, the excess amount paid, if any, shall be refunded.

*Explanation.*— For the purposes of this sub-section "tax payable on such excess amount" means,—

(i) in any case where the amount of adjustments made under the proviso to clause (a) of sub-section (1) exceed the total income, the tax that would have been chargeable had the amount of the adjustments been the total income;

(ii) in any other case, the difference between the tax on the total income and the tax that would have been chargeable had such total income been reduced by the amount of adjustments.'

22. *Amendment of section 144A.*— In section 144A of the Income-tax Act, in the *Explanation*, for the word "sub-section", the word "section" shall be substituted.

23. *Amendment of section 147.*— In section 147 of the Income-tax Act [as substituted by section 54 of the Direct Tax Laws (Amendment) Act, 1987], for 4 of 1988. the words "for reasons to be recorded by him in writing, is of the opinion", the words "has reason to believe" shall be substituted.

24. *Amendment of Section 148.*— Section 148 of the Income-tax Act [as substituted by section 54 of the Direct Tax Laws (Amendment) Act, 1987], shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.”

25. *Amendment of section 155.*— In section 155 of the Income-tax Act, in sub-section (4A), in clause (b), for the words “the proviso”, the words “the second proviso” shall be substituted.

26. *Substitution of new sub-heading for sub-heading DD of Chapter XV.*— In Chapter XV of the Income-tax Act, for the sub-heading “DD.— Association of persons— special cases” [as it stood immediately before its substitution by section 66 of the Direct Tax Laws (Amendment) Act, 1987], the sub-heading “DD.— Association of persons and body of individuals” shall be substituted.

27. *Omission of section 167A.*— Section 167A of the Income-tax Act [as it stood immediately before its substitution by section 66 of the Direct Tax Laws (Amendment) Act, 1987] shall be omitted.

28. *Insertion of new section 167B.*— After section 167A of the Income-tax Act (as omitted by section 27 of this Act), the following section shall be inserted, namely:—

“167B. *Charge of tax where shares of members in association of persons or body of individuals unknown, etc.*— (1) Where the individual shares of the members of an association of persons or body of individuals (other than a company or a cooperative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India) in the whole or any part of the income of such association or body are indeterminate or unknown, tax shall

be charged on the total income of the association or body at the maximum marginal rate:

Provided that, where the total income of any member of such association or body is chargeable to tax at a rate which is higher than the maximum marginal rate, tax shall be charged on the total income of the association or body at such higher rate.

(2) Where, in the case of an association of persons or body of individuals as aforesaid [not being a case falling under sub-section (1)],—

(i) the total income of any member thereof for the previous year (excluding his share from such association or body) exceeds the maximum amount which is not chargeable to tax in the case of that member under the Finance Act of the relevant year, tax shall be charged on the total income of the association or body at the maximum marginal rate;

(ii) any member or members thereof is or are chargeable to tax at a rate or rates which is or are higher than the maximum marginal rate, tax shall be charged on that portion or portions of the total income of the association or body which is or are relatable to the share or shares of such member or members at such higher rate or rates, as the case may be, and the balance of the total income of the association or body shall be taxed at the maximum marginal rate.

*Explanation.*— For the purposes of this section, the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body shall be deemed to be indeterminate or unknown if such shares (in relation to the whole or any part of such income) are indeterminate or unknown on the date of formation of such association or body or at any time thereafter.”

29. *Amendment of section 190.*— In section 190 of the Income-tax Act, in sub-section (1), after the words “payable by deduction”, the words “or collection” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1988.

30. *Amendment of section 194A.*— In section 194A of the Income-tax Act, in sub-section (3),

after clause (iii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1988, namely:—

"(iv) to such income credited or paid by a firm to a partner of the firm;"

31. *Omission of section 194E.*— Section 194E of the Income-tax Act shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988.

32. *Substitution of new section for section 196A.*— For section 196A of the Income-tax Act, the following section shall be substituted, namely:—

"196A. *Tax not to be deducted from any income payable to unit-holders of Mutual Fund.*— (1) Subject to the provisions of sub-section (2), no deduction of tax shall be made from any income payable in respect of units of a Mutual Fund, specified under clause (23D) of section 10, to its units-holders being persons other than foreign companies.

(2) Where any income referred to in sub-section (1) is payable to a unit-holder, being a foreign company, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty-five per cent."

33. *Amendment of sections 198, 199, 200, 202, 203, 203A, 205 and 215.*— In sections 198, 199, 200, 202, 203, sub-section (1) of section 203A, section 205 and sub-section (5) of section 215 of the Income-tax Act, for the words and figures "and section 195", the words, figures and letter "section 195 and section 196A" shall be substituted.

34. *Amendment of section 206C.*— In section 206C of the Income-tax Act,—

(a) in sub-section (1), in the Table, in Column (3) against item (iii), for the words "Ten per cent.", the words "Five per cent." shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1988;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

"(5A) Every person collecting tax in accordance with the provisions of this section shall prepare half yearly returns for the period ending on 30th September and 31st March in each financial year, and deliver or cause to be delivered to the prescribed income-tax authority such returns in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed."

35. *Amendment of section 209.*— In section 209 of the Income-tax Act, in sub-section (1), in clause (d), for the words "deductible at source", the words "deductible or collectible at source" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1988.

36. *Amendment of sections 222, 223, 224, 225, 226, 228 and 228A.*— In sections 222, 223, 224, 225, 226, 228 and 228A of the Income-tax Act [as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987], for the words "Income-tax Officer", wherever they occur, the words "Assessing Officer" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988.

37. *Amendment of section 226.*— In section 226 of the Income-tax Act (as amended by section 36 of this Act), in sub-sections (2), (3), (4) and (5), after the words "Assessing Officer", wherever they occur, the words "or Tax Recovery Officer" shall be inserted.

38. *Amendment of section 234A.*— In section 234A of the Income-tax Act [as inserted by section 94 of the Direct Tax Laws (Amendment) Act, 1987],—

(a) in sub-section (1),—

(i) for the words "the tax on the total income as determined on regular assessment as reduced by the advance tax, if any, paid and any tax deducted at source", the words, brackets and figures "the tax on the total income as determined under sub-section (1) of section 143 or on regular assessment as



reduced by the advance tax, if any, paid and any tax deducted or collected at source" shall be substituted;

(ii) for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

*Explanation 2.*— In this sub-section, "tax on the total income as determined under sub-section (1) of section 143" shall not include the additional income-tax, if any, payable under section 143.;

(iii) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

*Explanation 4.*— In this sub-section, "tax on the total income as determined under sub-section (1) of section 143 or on regular assessment" shall, for the purposes of computing the interest payable under section 140A, be deemed to be tax on total income as declared in the return.;

(b) in sub-section (3),—

(i) after the words and figures "under section 148 issued", the words, brackets and figures "after the determination of income under sub-section (1) of section 143 or" shall be inserted;

(ii) for the words "income determined on the basis of the earlier assessment aforesaid", the words, brackets and figures "income determined under sub-section (1) of section 143 or on the basis of the earlier assessment aforesaid" shall be substituted;

(iii) the *Explanation* shall be omitted.

39. *Amendment of section 234B.*— In section 234B of the Income-tax Act [as inserted by section 94 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1),—

(i) for the words "to the date of the regular assessment", the words, brackets and figures "to the date of determination of total income under sub-section (1) of section 143 or regular assessment" shall be substituted;

(ii) for *Explanation 1*, the following *Explanation* shall be substituted, namely:—

*Explanation 1.*— In this section, "assessed tax" means,—

(a) for the purposes of computing the interest payable under section 140A, the tax on the total income as declared in the return referred to in that section;

(b) in any other case, the tax on the total income determined under sub-section (1) of section 143 or on regular assessment,

as reduced by the amount of tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income.;

(iii) for *Explanation 3*, the following *Explanation* shall be substituted, namely:—

*Explanation 3.*— In *Explanation 1* and in sub-section (3), "tax on the total income determined under sub-section (1) of section 143" shall not include the additional income-tax, if any, payable under section 143.;

(b) in sub-section (2), in the opening portion, after the words "date of", the words, brackets and figures "determination of total income under sub-section (1) of section 143 or" shall be inserted;

(c) in sub-section (3),—

(i) for the words "the date of the regular assessment", the words, brackets and figures "the date of determination of total income under sub-section (1) of section 143 or regular assessment" shall be substituted;

(ii) for the words "income determined on the basis of the regular assessment aforesaid", the words, brackets and figures "income determined under sub-section (1) of section 143 or on the basis of the regular assessment aforesaid" shall be substituted;

(iii) the *Explanation* shall be omitted.

40. *Amendment of section 234C.*— In section 234C of the Income-tax Act, in sub-section (1),—

(a) the following proviso shall be inserted before the *Explanation*, namely:—

"Provided that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under-estimate or failure to estimate—

(a) the amount of capital gains; or

(b) income of the nature referred to in sub-clause (ix) of clause (24) of Section 2,

and the assessee has paid the whole of the amount of tax payable in respect of income referred to in clause (a) or clause (b), as the case may be, had such income been a part of the total income, as part of the instalment of advance tax which is immediately due or where no such instalment is so due, by the 31st day of March of the financial year.”;

(b) in the *Explanation*, for the words, figures and letter “the amount of tax deductible at source in accordance with the provisions of Chapter XVII-B on any income which is subject to such deduction”, the words and figures “the amount of tax deductible or collectible at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection” shall be substituted.

41. *Amendment of section 244A.*— In section 244A of the Income-tax Act [as inserted by section 98 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1),—

(i) for the words “Where, in pursuance of any order passed under this Act, refund of any amount becomes due to the assessee”, the words “Where refund of any amount becomes due to the assessee under this Act” shall be substituted;

(ii) in clause (a),—

(a) in the opening portion, after the words “out of any tax”, the words, figures and letter “collected at source under section 206C or” shall be inserted;

(b) in the proviso, after the words “tax as determined”, the words, brackets and figures “under sub-section (1) of section 143 or” shall be inserted;

(b) in sub-section (3), after the words “an order under”, the words, brackets and figures “sub-section (3) of section 143 or section 144 or” shall be inserted.

42. *Amendment of sub-heading to Chapter XX.*— In the sub-heading to Chapter XX of the Income-tax Act [as substituted by section 99 of the Direct Tax Laws (Amendment) Act, 1987], the 4 of 1988. words “or applications” shall be omitted.

43. *Amendment of section 246.*— In section 246 of the Income-tax Act [as substituted by section 99 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1),—

(i) in clauses (g) and (h), the words, figures and letters “in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year” occurring at the end shall be omitted;

(ii) in clause (1),—

(1) in sub-clause (ii), for the words, figures and letters “section 271E or section 272A”, the words, figures and letters “section 271E, section 272A, section 272AA or section 272BB” shall be substituted;

(2) in sub-clause (iii), the words, brackets and figures “sub-section (1) of section 271,” shall be omitted;

(b) in sub-section (2),—

(i) in clause (b), after the words, brackets and figure “sub-section (1)”, the words, figures and letters “or an order under section 104, as it stood immediately before the 1st day of April, 1988 in respect of any assessment for the assessment year commencing on the 1st day of April, 1987 or any earlier assessment year,” shall be inserted;

(ii) after clause (f), the following clause shall be inserted, namely:—

“(ff) an order made by a Deputy Commissioner imposing a penalty under section 272AA;”;

(iii) for clause (g), the following clause shall be substituted, namely:—

"(g) an order imposing a penalty under Chapter XXI by the Income-tax Officer or the Assistant Commissioner, where such penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (2) of section 274;".

44. *Omission of section 246A.*— Section 246A of the Income-tax Act [as inserted by section 99 of the Direct Tax Laws (Amendment) Act, 1987] shall be omitted. 40 of 1988.

45. *Amendment of section 249.*— In section 249 of the Income-tax Act, in sub-section (4), in the proviso,—

(i) after the words "Provided that," the words, brackets and letter "in a case falling under clause (b) and" shall be inserted;

(ii) for the words "this sub-section", the words "that clause" shall be substituted.

46. *Amendment of section 253.*— In section 253 of the Income-tax Act, in sub-section (1),—

(i) in clause (a), the words, brackets and figures "sub-section (2) of section 131," shall be omitted;

(ii) in clause (c), the words, figures and letter "or an order passed by a Chief Commissioner or a Director General or a Director under section 272A" shall be inserted at the end.

47. *Amendment of section 255.*— In section 255 of the Income-tax Act, in sub-section (3), for the words "forty thousand rupees", the words "one lakh rupees" shall be substituted.

48. *Amendment of Section 269A.*— In section 269A of the Income-tax Act, in clause (b), for the words "an Assistant Commissioner of Income-tax", the words "a Deputy Commissioner" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988.

49. *Amendment of section 269B.*— In section 269B of the Income-tax Act, in sub-section (1), in clause (a), for the words "Assistant

Commissioners of Income-tax", the words "Deputy Commissioners" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988.

50. *Amendment of section 271.*— In section 271 of the Income-tax Act [as it stood immediately before its substitution by section 106 of the direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1),—

(i) clause (a) shall be omitted;

(ii) clause (i) shall be omitted;

(iii) for clause (ii), the following clause shall be substituted, namely:—

"(ii) in the cases referred to in clause (b), in addition to any tax payable by him, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure;";

(iv) in clause (iii),—

(1) for the word "twice" the words "three times" shall be substituted;

(2) the proviso shall be omitted;

(v) for *Explanation 3*, the following *Explanation* shall be substituted, namely:—

"*Explanation 3.*— Where any person who has not previously been assessed under this Act, fails, without reasonable cause, to furnish within the period specified in sub-section (1) of section 153 a return of his income which he is required to furnish under section 139 in respect of any assessment year commencing on or after the 1st day of April, 1989, and until the expiry of the period aforesaid, no notice has been to him under clause (i) of sub-section (1) of section 142 or section 148 and the Assessing Officer or the Deputy Commissioner (Appeals) or the Commissioner (Appeals) is satisfied that in respect of such assessment year such person has taxable income, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have

concealed the particulars of his income in respect of such assessment year, notwithstanding that such person furnishes a return of his income at any time after the expiry of the period aforesaid in pursuance of a notice under section 148.”;

(vi) in *Explanation 5*, in clause (2), the words, brackets and letters “clause (a) or clause (b) of” shall be omitted.

(vii) after *Explanation 5*, the following *Explanation* shall be inserted, namely:—

“*Explanation 6*.— Where any adjustment is made in the income or loss declared in the return under the proviso to clause (a) of sub-section (1) of section 143 and additional tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustment so made.”;

(b) sub-section (3) shall be omitted;

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

51. *Amendment of section 273A*.— In section 273A of the Income-tax Act [as amended by section 113 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1),—

(i) clauses (i) and (iii) shall be omitted;

(ii) clauses (a) and (c) shall be omitted;

(iii) for the words, brackets and letters “in all the cases referred to in clauses (a), (b)

and (c)”, the words, brackets and letter “in the case referred to in clause (b)” shall be substituted;

(b) in sub-section (2), clause (a) shall be omitted;

(c) in sub-section (6), after the words “of this section”, the words, brackets and figures “as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989” shall be inserted.

52. *Amendment of section 275*.— In section 275 of the Income-tax Act, in clause (a) [as substituted by section 116 of the Direct Tax Laws (Amendment) Act, 1987], after the words “the order 4 of 1988. of”, the words and brackets “the Deputy Commissioner (Appeals) or ” shall be inserted.

53. *Insertion of new section 279B*.— After section 279A of the Income-tax Act, the following section shall be inserted, namely:—

“279B. *Proof of entries in records or documents*.— Entries in the records or other documents in the custody of an Income-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Chapter, and all such entries may be proved either by the production of the records or other documents in the custody of the Income-tax authority containing such entries, or by the production of a copy of the entries certified by the Income-tax authority having custody of the records or other documents under its signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody.”.

54. *Amendment of Second Schedule*.— In the Second Schedule to the Income-tax Act—

(a) [as it stood immediately before its amendment by the Direct Tax Laws (Amendment) Act, 1987], for the 4 of 1988. words “Income-tax Officer”, wherever they occur, the words “Assessing Officer” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988;

(b) [as amended by clause (a) of this section],—

(1) in rule 2, for the words "When a certificate has been received by the Tax Recovery Officer from the Assessing Officer", the words "When a certificate has been drawn up by the Tax Recovery Officer" shall be substituted;

(2) in rule 9, for the words "Assessing Officer", the words "Tax Recovery Officer" shall be substituted;

(3) in rule 14, for the words "Assessing Officer", the words "Tax Recovery Officer" shall be substituted;

(4) in rule 25, in sub-rule (1), for the words "and the Assessing Officer shall bear such sum as the Tax Recovery Officer shall require in order to defray the cost of such arrangements", the words "and he shall have power to defray the cost of such arrangements" shall be substituted;

(5) in rule 27, for the words "Assessing Officer", wherever they occur, the words "Tax Recovery Officer" shall be substituted;

(6) in rule 31, for the words "Assessing Officer" occurring in the proviso, the words "Tax Recovery Officer" shall be substituted;

(7) in rule 47, for the words "direct that such coins or notes, or a part thereof sufficient to satisfy the certificate, be paid over to the Assessing Officer", the words and figure "direct that such coins or notes shall be credited to the Central Government and the amount so credited shall be dealt with in the manner specified in rule 8" shall be substituted;

(8) in rule 60, in sub-rule (1), in clause (a), the words "for payment to the Assessing Officer" shall be omitted;

(9) in rule 61, for the words "Assessing Officer", the words "such Income-tax Officer as may be authorised by the Chief Commissioner or Commissioner in this behalf" shall be substituted;

(10) in rule 74, for the words "the Tax Recovery Officer shall proceed to hear the Assessing Officer and take all such evidence

as may be produced by him in support of execution by arrest, and shall then give the defaulter", the words "the Tax Recovery Officer shall give the defaulter" shall be substituted;

(11) in rule 85, for the words "If at any time after the issue of the certificate by the Assessing Officer to the Tax Recovery Officer", the words "If at any time after the certificate is drawn up by the Tax Recovery Officer" shall be substituted;

(12) in rule 90, in sub-rule (1), for the words "Assessing Officer", the words "Tax Recovery Officer" shall be substituted.

55. *Amendment of Third Schedule.*— In the Third Schedule to the Income-tax Act—

(a) [as it stood immediately before its amendment by the Direct Tax Laws (Amendment) Act, 1987], for the words "Income-tax Officer", the words "Assessing Officer" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988;

(b) [as amended by clause (a) of this section], after the words "Assessing Officer", the words "or Tax Recovery Officer" shall be inserted.

56. *Amendment of Tenth Schedule.*—

In the Tenth Schedule to the Income-tax Act [as inserted by section 125 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(i) in rule 1,—

(a) for the words "the proviso", the words "the first proviso or the third proviso" shall be substituted;

(b) for the words "the said proviso", the words "the said first proviso or, as the case may be, the said third proviso" shall be substituted;

(ii) in rule 3,—

(a) after the proviso, the following provisos shall be inserted, namely:—

"Provided further that the amount of ten thousand rupees, specified in column (2) of the said Table against sub-section (2) of

section 48, shall be increased during the transitional previous year only where the long-term capital gain arises as a result of two or more transfers of long-term capital assets and at least one of the said transfers is made during the initial period of twelve months comprised within the transitional previous year and the remaining transfer or transfers is or are made during the period beyond the said period of twelve months comprised within the transitional previous year:

Provided also that where more than one period in respect of different sources of income are included in the transitional previous year under the first proviso or the third proviso to sub-section (2) of section 3, then the amount or amounts specified in column (2) of the said Table shall be increased to such extent and in such manner as the Board may, having regard to,—

(a) length of the period or periods included in the transitional previous year in respect of different sources of income;

(b) length of the transitional previous year; and

(c) other relevant factors,

prescribe in this behalf.”;

(b) for the Table, the following Table shall be substituted, namely:—

“TABLE

Provision of the Act	Amount
(1)	(2)
	Rs.
Section 10(3) ... ..	5,000.
Section 12A(b)... ..	25,000.
Section 13(2)(g) ... ..	1,000.
Section 16(i) ... ..	12,000.
Section 16(i), proviso ... ..	1,000.
Section 16(ii) ... ..	5,000 and 7,500.
Section 23(1)(d)(ii)... ..	3,600.
Section 24(2), proviso ... ..	5,000.

(1)	(2)
Section 33A(7), proviso ... ..	40,000, 35,000 and 30,000.
Section 35A ... ..	1/14th of the amount of capital expenditure.
Section 35AB ... ..	1/6th or 1/3rd of the amount paid as lumpsum consideration.
Section 35D ... ..	1/10th of the amount of certain preliminary expenses.
Section 37(2A)... ..	5,000 and 50,000.
Section 40A(12) ... ..	10,000.
Section 44AA(2)(i) and (ii) ... ..	25,000 and 2,50,000.
Section 44AB ... ..	40,00,000 and 10,00,000.
Section 48(2) ... ..	10,000.
Section 80C(1)... ..	6,000, 9,000 and 12,000.
Section 80C(3)... ..	1/10th of the actual capital sum assured.
Section 80C(4)... ..	60,000 and 40,000.
Section 80C(7)(c) ... ..	10,000.
Section 80CC(2) ... ..	20,000.
Section 80CCA(1) ... ..	30,000.
Section 80D(1)... ..	3,000.
Section 80L(1)... ..	7,000 (occurring in two places).
Section 80L(1), 1st proviso ... ..	3,000.
Section 80L(1), 2nd proviso ... ..	3,000.
Section 80P(2)(c) ... ..	40,000 and 20,000.
Section 80P(2)(f) ... ..	20,000.
Section 80U ... ..	15,000.
Section 139A(2) ... ..	50,000.”;

(iii) for rules 4 and 5, the following rules shall be substituted, namely:—

‘4. *Modification in section 6.*— Where the transitional previous year comprises a period of eighteen months or more, then, sub-section (1) of section 6 shall be subject to the modification that references therein to the periods of one

hundred and eighty-two days, ninety days and sixty days shall be construed as references, respectively, to the periods of two hundred and seventy-three days, one hundred and thirty-five days and ninety days.

5. *Modification in respect of depreciation allowance.*— Where the assessee's income under the head "Profits and gains of business or profession" or under the head "Income from other sources" for a period of thirteen months or more is included in his total income for the transitional previous year, the allowance under clause (ii) of sub-section (1) of section 32 or, as the case may be, under clause (ii) of section 57 in respect of depreciation on block of assets calculated in the manner stated in clause (ii) of sub-section (1) of section 32, shall be increased by multiplying it by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve:

Provided that where more than one period in respect of income under the head "Profits and gains of business or profession" or under the head "Income from other sources" are included in the transitional previous year under the first proviso or the third proviso to sub-section (2) of section 3, the allowance in respect of depreciation on block of assets shall be calculated separately for each such period included in the transitional previous year in the manner stated in clause (ii) of sub-section (1) of section 32 and increased, where necessary, by multiplying it by a fraction of which the numerator is the number of months in such period (after excluding the number of months relatable to the period in relation to which depreciation on block of assets has been allowed or is allowable in the previous year relevant to the assessment year commencing on the 1st day of April, 1988) and the denominator is twelve.;

(iv) in rule 6, the following proviso shall be inserted at the end, namely:—

"Provided that where more than one period in respect of different sources of

income are included in the transitional previous year under the first proviso or the third proviso to sub-section (2) of section 3, then the tax shall be chargeable at the average rate of tax, calculated in accordance with the provisions of this rule, on the total income of the transitional previous year after excluding from such total income the income relatable to any such period or periods which has already been included or is includable in the total income of the previous year or previous years relevant to the assessment year commencing on the 1st day of April, 1988."

57. *Consequential amendments.*— The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act, namely:—

(1) in section 80A, in sub-section (3) [as it stood immediately before its substitution by section 21 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) after the figures and letters "80HHC", the words, figures and letters "or section 80HHD" shall be inserted;

(b) The words, figures and letters "or section 80QQ or section 80T" shall be omitted;

(2) in section 80P, in sub-section (3),—

(a) after the words, figures and letters "or section 80HHC", the words, figures and letters "or section 80HHD" shall be inserted;

(b) after the figures and letters "80HHC", the word, figures and letters "section 80HHD," shall be inserted;

(3) in section 184 [as it stood immediately before its substitution by section 68 of the Direct Tax Laws (Amendment) Act, 1987], in 4 of 1988. sub-section (7), in the proviso, in clause (ii), for the words, brackets and figures "sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension)", the words, brackets and figures "sub-section (1) of section 139" shall be substituted;

(4) in section 273B [as amended by section 114 of the Direct Tax Laws (Amendment) Act, 1987], after the words "in the provisions of", the words, brackets, letter and figure "clause (b) of sub-section (1) of" shall be inserted.

### CHAPTER III

#### Amendments to the Wealth-Tax Act, 1957

58. *Amendment of section 2.*— In section 2 of the Wealth-tax Act, 1957 (hereafter in this Chapter referred to as the Wealth-tax Act), in clause (m), the *Explanation* shall be renumbered as *Explanation 1* and after *Explanation 1* as so renumbered, the following *Explanation* shall be inserted, namely:—

"*Explanation 2.*— Where a debt falling under sub-clause (ii) is secured on, or has been incurred in relation to, any asset which is not to be included wholly or partly in the net wealth by virtue of the provisions of sub-section (1A) of section 5, the amount of such debt shall, for the purposes of the said sub-clause, be limited to the value of the said asset which is not includible in the net wealth under sub-section (1A) of section 5."

59. *Amendment of section 4.*— In section 4 of the Wealth-tax Act,—

(a) in sub-section (1),—

(i) for the portion beginning with the words "In computing the net wealth of an individual" and ending with the words "on the valuation date are held—", the following shall be substituted, namely:—

"In computing the net wealth—

(a) of an individual, there shall be included, as belonging to that individual, the value of assets which on the valuation date are held—";

(ii) for clause (b), the following clause shall be substituted, namely:—

"(b) of an assessee who is a partner in a firm or a member of an association of persons

(not being a co-operative housing society), there shall be included, as belonging to that assessee, the value of his interest in the firm or association determined in the manner laid down in Schedule III:

Provided that where a minor is admitted to the benefits of partnership in a firm, the value of the interest of such minor in the firm, determined in the manner specified above, shall be included in the net wealth of that parent of the minor whose net wealth (excluding the interest of the minor in the firm referred to in this clause) is greater; and where any such interest is once included in the net wealth of either parent for any assessment year, any such interest in any succeeding year shall not be included in the net wealth of the other parent unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do."

(b) sub-section (2) shall be omitted.

60. *Amendment of section 5.*— In section 5 of the Wealth-tax Act,—

(a) in sub-section (1), after clause (xvif), the following clause shall be inserted, namely:—

"(xvig) in the case of an individual who is a non-resident Indian during the year ending on the valuation date, or a nominee or survivor of such individual or an individual receiving by way of gift from such individual, the bonds specified under sub-clause (iid) of clause (15) of section 10 of the Income-tax Act:

Provided that where an individual, who is a non-resident Indian during the year ending on the valuation date in which the bonds are acquired, becomes a resident in India in any subsequent year ending on the valuation date, the provisions of this clause shall continue to apply in relation to such individual.

*Explanation.*— For the purposes of this clause, an individual shall be deemed to be a non-resident Indian during the year ending on the valuation date if in respect of that year the individual is a non-resident Indian within the meaning of clause (e) of section 115C of the Income-tax Tax;"



(b) in sub-section (1A), the following *Explanation* shall be inserted at the end, namely:—

*Explanation.*— Where a debt is secured on, or has been incurred in relation to, any asset referred to in this sub-section, the exemption under this sub-section shall be allowed first against the value of the asset on which or in relation to which such debt is secured or incurred and, thereafter, against the value of any other asset so referred to.”;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Where the assessee is a partner of a firm or member of an association of persons, and the firm or association owns any one or more of the assets which are exempt under sub-section (1), then, for the purposes of his assessment under this Act, the value of his interest in the firm or association shall be deemed to include the value of a part of each such asset of the firm or association in the same proportion in which he is entitled to share the profits of the firm or association and the assessment shall be made after allowing the exemption under sub-section (1) in respect of those assets on the basis of such proportionate value.”.

61. *Amendment of section 6.*— In section 6 of the Wealth-tax Act, in *Explanation 1A*, for the word, brackets, figure and letter “clause (4A)”, the words, brackets and figures “sub-clause (ii) of clause (4)” shall be substituted.

62. *Substitution of new section for section 7.*— For section 7 of the Wealth-tax Act, the following section shall be substituted, namely:—

“7. *Value of assets how to be determined.*—

(1) Subject to the provisions of sub-section (2), the value of any asset, other than cash, for the purposes of this Act shall be its value as on the valuation date determined in the manner laid down in Schedule III.

(2) The value of a house belonging to the assessee and exclusively used by him for residential purposes throughout the period of twelve months immediately preceding the valuation date, may, at the option of the assessee, be taken to be the value determined in the manner laid down in Schedule III as

on the valuation date next following the date on which he became the owner of the house or the valuation date relevant to the assessment year commencing on the 1st day of April, 1971, whichever valuation date is later:

Provided that where more than one house belonging to the assessee is exclusively used by him for residential purposes, the provisions of this sub-section shall apply only in respect of one of such houses which the assessee may, at his option, specify in this behalf in the return of net wealth.

*Explanation.*— For the purposes of this sub-section,—

(i) where the house has been constructed by the assessee, he shall be deemed to have become the owner thereof on the date on which the construction of such house was completed;

(ii) “house” includes a part of a house being an independent residential unit.’.

63. *Amendment of section 11.*— In section 11 of the Wealth-tax Act [as substituted by section 131 of the Direct Tax Laws (Amendment) Act, 1987], in sub-section (2), in clause (b), for the brackets and figure “(5)”, the brackets and figure “(4)” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988. 4 of 1988.

64. *Amendment of section 16.*— In section 16 of the Wealth-tax Act [as substituted by section 138 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1), in clause (a), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that an intimation for any tax or interest due under this clause shall not be sent after the expiry of two years from the end of the assessment year in which the net wealth was first assessable.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) (a) Where in the case of any person, the net wealth, as a result of the

adjustments made under the proviso to clause (a) of sub-section (1), exceeds the net wealth declared in the return by any amount, the Assessing Officer shall,—

(i) further increase the amount of tax payable under sub-section (1) by an additional wealth-tax calculated at the rate of twenty per cent of the tax payable on such excess amount and specify the additional wealth-tax in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1);

(ii) where any refund is due under sub-section (1), reduce the amount of such refund by an amount equivalent to the additional wealth-tax calculated under sub-clause (i).

(b) Where as a result of an order under section 23 or section 24 or section 25 or section 27 or section 29 or section 35, the amount on which additional wealth-tax is payable under clause (a) has been increased or reduced, as the case may be, the additional wealth-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional wealth-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand under section 30;

(ii) in a case where additional wealth-tax is reduced, the excess amount paid, if any, shall be refunded.

*Explanation.*— For the purposes of this sub-section, "tax payable on such excess amount" means the difference between the tax on the net wealth and the tax that would have been chargeable had such net wealth been reduced by the amount of adjustments.'

65. *Amendment of section 16A.*— In section 16A of the Wealth-tax Act, in sub-section (1), in the opening portion, after the words "under this Act," the words and figures "where under the provisions of section 7 read with the rules made under this Act or, as the case may be, the rules in Schedule III, the market value of any asset is to be taken into account in such assessment," shall be inserted.

66. *Amendment of section 17.*— In section 17 of the Wealth-tax Act, in sub-section (1) [as substituted by clause (a) of section 139 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) for the words " , for reasons to be recorded by him in writing, is of the opinion", the words "has reason to believe" shall be substituted;

(b) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the Assessing Officer shall, before issuing any notice under this sub-section, record his reasons for doing so."

67. *Amendment of section 17B.*— In section 17B of the Wealth-tax Act [as inserted by section 141 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1),—

(i) after the words "net wealth as determined", the words, brackets and figures "under sub-section (1) of section 16 or" shall be inserted;

(ii) for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

*Explanation 2.*— In this sub-section, "tax payable on the net wealth as determined under sub-section (1) of section 16" shall not include the additional wealth-tax, if any, payable under section 16.'

(iii) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

*Explanation 4.*— In this sub-section, "tax payable on the net wealth as determined under sub-section (1) of section 16 or on regular assessment" shall, for the purposes of computing the interest payable under section 15B, be deemed to be tax payable on the net wealth as declared in the return.'

(b) in sub-section (3),—

(i) after the words, brackets and figures "sub-section (1) of section 17 issued", the

words, brackets and figures "after the determination of net wealth under sub-section (1) of section 16 or" shall be inserted;

(ii) after the words "net wealth as determined", the words, brackets and figures "under sub-section (1) of section 16 or" shall be inserted;

(iii) the *Explanation* shall be omitted.

68. *Amendment of section 18.*— In section 18 of the Wealth-tax Act [as it stood immediately before its substitution by section 142 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(a) in sub-section (1),—

(i) clause (a) shall be omitted;

(ii) clause (i) shall be omitted;

(iii) for clause (ii), the following clause shall be substituted, namely:—

"(ii) in the cases referred to in clause (b), in addition to the amount of wealth-tax payable by him, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure;"

(iv) for the proviso, the following proviso shall be substituted, namely:—

"Provided that in the cases referred to in clause (b), no penalty shall be imposable if the person proves that there was a reasonable cause for the failure referred to in that clause.";

(v) for *Explanation 3*, the following *Explanation* shall be substituted, namely:—

"*Explanation 3.*— Where any person who has not previously been assessed under this Act, fails, without reasonable cause, to furnish within the period specified in sub-section (1) of section 17A, a return of his net wealth which he is required to furnish under section 14 in respect of any assessment year commencing on or after the 1st day of April, 1989, and until the expiry of the

period aforesaid, no notice has been issued to him under clause (i) of sub-section (4) of section 16 or sub-section (1) of section 17 and the Assessing Officer or the Deputy Commissioner (Appeals) or the Commissioner (Appeals) is satisfied that in respect of such assessment year such person has assessable net wealth, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his assets or furnished inaccurate particulars of any assets or debts in respect of such assessment year, notwithstanding that such person furnishes a return of his net wealth at any time after the expiry of either of the periods aforesaid applicable to him in pursuance of a notice under section 17.";

(vi) after *Explanation 5*, the following *Explanation* shall be inserted, namely:—

"*Explanation 6.*— Where any adjustment is made in the wealth declared in the return under the proviso to clause (a) of sub-section (1) of section 16 and additional wealth-tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustments so made.";

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) No order imposing a penalty under sub-section (1) shall be made—

(i) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(ii) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.";

(c) sub-section (3A) shall be omitted;

(d) for sub-section (5), the following sub-sections shall be substituted, namely:—

"(5) No order imposing a penalty under this section shall be passed—

(i) in a case where the assessment to which the proceedings for imposition of

penalty relate is the subject-matter of an appeal to the Deputy Commissioner (Appeals) or the Commissioner (Appeals) under section 23 or an appeal to the Appellate Tribunal under sub-section (2) of section 24, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever is later;

(ii) in a case where the relevant assessment is the subject-matter of revision under sub-section (2) of section 25, after the expiry of six months from the end of the month in which such order of revision is passed;

(iii) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

*Explanation.*— In computing the period of limitation for the purposes of this section,—

(i) any period during which the immunity granted under section 22H remained in force;

(ii) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 39; and

(iii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.

(6) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other

provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year."

69. *Substitution of new section for section 18A.*— For section 18A of the Wealth-tax Act [as it stood immediately before its substitution by section 142 of the Direct Tax Laws (Amendment) Act, 1987], the following section shall be substituted, namely:—

*'18A. Penalty for failure to answer questions, sign statements, furnish information, allow inspection, etc.— (1) If any person,—*

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a wealth-tax authority in the exercise of his powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which a wealth-tax authority may legally require him to sign; or

(c) to whom a summons is issued under sub-section (1) of section 37 either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure:

Provided that no penalty shall be imposable under clause (c) if the person proves that there was reasonable cause for the said failure.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 38, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues:

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed—

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a wealth-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such wealth-tax authority;

(b) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any wealth-tax authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed has been heard, or has been given a reasonable opportunity of being heard in the matter, by such authority.

*Explanation.*— In this section, "wealth-tax authority" includes a Director General, Director, Deputy Director, Assistant Director and a Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in sub-section (1) of section 37.

70. *Amendment of section 18B.*— In section 18B of the Wealth-tax Act,—

(a) in sub-section (1),—

(i) clause (i) shall be omitted;

(ii) clause (a) shall be omitted;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year."

71. *Amendment of section 23.*— In section 23 of the Wealth-tax Act [as amended by section 146 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(i) in sub-section (1), in clause (d), the words, figures and letters "as it stood immediately before the 1st day of April, 1989 or under section 18 as amended by the Direct Tax Laws (Amendment) Act, 1987" occurring at the end shall be omitted;

(ii) in sub-section (1A), for clause (b), the following clause shall be substituted, namely:—

"(b) objecting to any penalty imposed under sub-section (1) of section 18 with the previous approval of the Deputy Commissioner as specified in sub-section (3) of that section;"

72. *Amendment of section 26.*— In section 26 of the Wealth-tax Act, in sub-section (1), after the word and figures "section 25", the words, figures and letter "or an order passed by the Director General or Director under section 18A" shall be inserted.

73. *Amendment of section 34A.*— In section 34A of the Wealth-tax Act,—

(a) in sub-section (1), in the proviso [as inserted by clause (i) of section 150 of the Direct Tax Laws (Amendment) Act, 1987], in clause (b), for the words "total income", the words "net wealth" shall be substituted; 4 of 1988.

(b) in sub-section (4B) [as inserted by section 150 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(i) in clause (a), for the words "Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the assessee", the words "Where refund of any amount becomes due to the assessee under this Act," shall be substituted;

(ii) in clause (c), after the words "an order under", the words, brackets and figures "sub-section (3) or sub-section (5) of section 16 or" shall be inserted.

74. *Amendment of section 35.*— In section 35 of the Wealth-tax Act [as amended by section 160 of the Direct Tax Laws (Amendment) Act, 1987], in 4 of 1988. sub-section (1), in clause (c), the words, figures and letter "or section 23A" shall be omitted.

75. *Insertion of new section 36.*— After section 35-O of the Wealth-tax Act, the following section shall be inserted, namely:—

"36. *Proof of entries in records or documents.*— Entries in the records or other documents in the custody of a wealth-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Act, and all such entries may be proved either by the production of the records or other documents in the custody of the wealth-tax authority containing such entries or by the production of a copy of the entries certified by the wealth-tax authority having custody of the records or other documents under its signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody."

76. *Amendment of section 41.*— In section 41 of the Wealth-tax Act, in sub-section (2), for the words "and in the case of any other association of persons", the words "and in the case of a company or any other association of persons" shall be substituted.

77. *Amendment of section 42A.*— In section 42A of the Wealth-tax Act, the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*— In the case of a company, the names of the directors, secretaries and treasurers, or managers of the company, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it."

78. *Insertion of new Schedule III.*— In the Wealth-tax Act, after Schedule II, the following Schedule shall be inserted, namely:—

### 'SCHEDULE III

[See section 7(1)]

#### Rules for Determining the Value of Assets

##### PART A

##### General

1. *Value of assets how to be determined.*— The value of any asset, other than cash, for the purposes of this Act, shall be determined in the manner laid down in these rules.

2. *Definitions.*— In this Schedule, unless the context otherwise requires,—

(1) "accounting year" in relation to a company means a period in respect of which any profit and loss account of the company laid before it in the annual general meeting is made up;

(2) "debenture" includes debenture stock, bonds and any other securities of a company, whether constituting a charge on the assets of the company or not;

(3) "equity share" means any share in the share capital of a company other than a preference share.

(4) "gold" means gold, including its alloy, whether virgin, melted, remelted, wrought or unwrought, in any shape or form of a purity of not less than nine carats and includes any gold coin (whether legal tender or not), any gold ornament and other article of gold;

(5) "gold ornament" means any article in a finished form, meant for personal adornment or for the adornment of any idol, deity or any other object of religious worship, made of, or manufactured from, gold, whether or not set with stones or gems, real or artificial, or with pearls, real, cultured or imitation, or with all or any of them and includes parts, pendants or broken pieces of gold ornaments;

(6) "investment company" means a company whose gross total income consists mainly of income which is chargeable to income-tax under the heads "Income from house property", "Capital gains" and "Income from other sources".

*Explanation.*— In this clause, the expression "gross total income" shall have the meaning assigned to it in section 80B of the Income-tax Act;

(7) "jewellery" includes—

(a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones, and whether or not worked or sewn into any wearing apparel;

(b) precious or semi-precious stones, whether or not set in any furniture, utensils or other article or worked or sewn into any apparel;

(8) "preference share" has the meaning assigned to it in section 85 of the Companies Act, 1956; 1 of 1956.

(9) "quoted share" or "quoted debenture", in relation to an equity share or a preference share or, as the case may be, a debenture, means a share or debenture quoted on any recognised stock exchange with regularity from time to time, where the quotations of such shares or debentures are based on current transactions made in the ordinary course of business.

*Explanation.*— Where any question arises whether a share or debenture is a "quoted share" or a "quoted debenture" within the meaning of this clause, a certificate to that effect furnished by the concerned stock exchange in the prescribed form shall be accepted as conclusive;

(10) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(11) "unquoted share" or "unquoted debenture", in relation to an equity share or a preference share or, as the case may be, a debenture, means a share or debenture which is not a quoted share or a quoted debenture.

## PART B

### Immovable Property

3. *Valuation of immovable property.*— Subject to the provisions of rules 4, 5, 6, 7 and 8, for the purposes of sub-section (1) of section 7, the value of any immovable property, being a building or land appurtenant thereto, or part thereof, shall be the amount arrived at by multiplying the net maintainable rent by the figure 12.5:

Provided that in relation to any such property which is constructed on leasehold land, this rule shall have effect as if for the figure 12.5,—

(a) where the unexpired period of the lease of such land is fifty years or more, the figure 10.0 had been substituted; and

(b) where the unexpired period of the lease of such land is less than fifty years, the figure 8.0 had been substituted:

Provided further that where such property is acquired or construction of which is completed after the 31st day of March, 1974, if the value so arrived at is lower than the cost of acquisition or the cost of construction, as increased, in either case, by the cost of any improvement to the property, the cost of acquisition or, as the case may be, the cost of construction, as so increased, shall be taken to be the value of the property under this rule:

Provided also that the provisions of the second proviso shall not apply for determining the value of one house belonging to the assessee, where such house is acquired or the construction whereof is completed after the 31st day of March, 1974, and the house is exclusively used by the assessee for his own residential purposes throughout the period of twelve months immediately preceding the valuation date and the cost of acquisition or, as the case may be, the cost of construction, as increased, in either case, by the cost of any improvement to the house, does not exceed,—

(a) if the house is situate at Bombay, Calcutta, Delhi or Madras, fifty lakh rupees;

(b) if the house is situate at any other place, twenty-five lakh rupees:

Provided also that where more than one house belonging to the assessee is exclusively used by him for residential purposes, the provisions of the third proviso shall apply only in respect of one of such houses which the assessee may, at his option, specify in this behalf.

4. *Net maintainable rent how to be computed.*— For the purposes of rule 3, "net maintainable rent" in relation to an immovable property referred to in that rule, shall be the amount of gross maintainable rent as reduced by—

(i) the amount of taxes levied by any local authority in respect of the property; and

(ii) a sum equal to fifteen per cent of the gross maintainable rent.

5. *Gross maintainable rent how to be computed.*— For the purposes of rule 4, "gross maintainable rent", in relation to any immovable property referred to in rule 3, means—

(i) Where the property is let, the amount received or receivable by the owner as annual rent or the annual value assessed by the local authority in whose area the property is situated for the purposes of levy of property tax or any other tax on the basis of such assessment, whichever is higher;

(ii) Where the property is not let, the amount of annual rent assessed by the local authority in whose area the property is situated for the purpose of levy of property tax or any other tax on the basis of such assessment, or, if there is no such assessment or the property is situated outside the area of any local authority the amount which the owner can reasonably be expected to receive as annual rent had such property been let.

*Explanation.*— In this rule,—

(1) "annual rent" means,—

(a) where the property is let throughout the year ending on the valuation date (hereinafter referred to as "previous year"), the actual rent received or receivable by the owner in respect of such year;

(b) where the property is let for only a part of the previous year, the amount which bears the same proportion to the amount of

actual rent received or receivable by the owner for the period for which the property is let as the period of twelve months bears to the number of months (including part of a month) during which the property is let during the previous year:

Provided that in the following cases, such actual rent under sub-clauses (a) and (b) shall be increased in the manner specified below:—

(i) where the property is in the occupation of a tenant and taxes levied by any local authority in respect of the property are borne wholly or partly by the tenant, by the amount of the taxes so borne by the tenant:

(ii) where the property is in the occupation of a tenant and expenditure on repairs in respect of the property is borne by the tenant, by one-ninth of the actual rent;

(iii) where the owner has accepted any amount as deposit (not being advance payment towards rent for a period of three months or less), by the amount calculated at the rate of 15 per cent per annum on the amount of deposit outstanding from month to month, for the number of months (excluding part of a month) during which such deposit was held by the owner in the previous year, and if the owner is liable to pay interest on such deposit, the increase to be made under this clause shall be limited to the sum by which the amount calculated as aforesaid exceeds the interest actually paid;

(iv) where the owner has received any amount by way of premium or otherwise as consideration for leasing of the property or any modification of the terms of the lease, by the amount obtained by dividing the premium or other amount by the number of years of the period of the lease;

(v) where the owner derives any benefit or perquisite, whether convertible into money or not, as consideration for leasing of the property or any modification of the terms of the lease, by the value of such benefit or perquisite;



(2) "rent received or receivable" shall include all payments for the use of the property, by whatever name called, the value of all benefits or perquisites whether convertible into money or not, obtained from a tenant or occupier of the property and any sum paid by a tenant or occupier of the property in respect of any obligation which, but for such payment, would have been payable by the owner.

6. *Adjustments to value arrived at under rule 3, for unbuilt area of plot of land.*— Where the unbuilt area of the plot of land on which the property referred to in rule 3 is constructed exceeds the specified area, the value arrived at in accordance with the provisions of rule 3 shall be increased by an amount calculated in the following manner, namely:—

(a) where the difference between the unbuilt area and the specified area exceeds five per cent. but does not exceed ten per cent of the aggregate area, by an amount equal to thirty per cent of such value;

(b) where the difference between the unbuilt area and the specified area exceeds ten per cent but does not exceed fifteen per cent of the aggregate area, by an amount equal to thirty per cent of such value;

(c) where the difference between the unbuilt area and the specified area exceeds fifteen per cent but does not exceed twenty per cent of the aggregate area, by an amount equal to forty per cent of such value.

*Explanation.*— For the purposes of this rule and rule 6,—

(a) "aggregate area", in relation to the plot of land on which the property is constructed, means the aggregate of the area on which the property is constructed and the unbuilt area;

(b) "specified area", in relation to the plot of land on which the property is constructed, means—

(i) where the property is situate at Bombay, Calcutta, Delhi or Madras, sixty per cent of the aggregate area;

(ii) where the property is situate at Agra, Ahmedabad, Allahabad, Amritsar, Bangalore, Bhopal, Cochin, Hyderabad, Indore, Jabalpur,

Jamshedpur, Kanpur, Lucknow, Ludhiana, Madurai, Nagpur, Patna, Pune, Salem, Sholapur, Srinagar, Surat, Tiruchirappalli, Trivandrum, Vadodara (Baroda) or Varanasi (Banaras), sixty-five per cent of the aggregate area; and

(iii) where the property is situate at any other place, seventy per cent of the aggregate area;

Provided that where, under any law for the time being in force, the minimum area of the plot of land required to be kept as open space for the enjoyment of the property exceeds the specified area, such minimum area shall be deemed to be the specified area;

(c) "unbuilt area", in relation to the aggregate area of the plot of land on which the property is constructed, means that part of such aggregate area on which no building has been erected.

7. *Adjustment for unearned increase in the value of the land.*— Where the property is constructed on land obtained on lease from the Government, a local authority or any authority referred to in clause (20A) of section 10 of the Income-tax Act, and the Government or any such authority is, under the terms of the lease, entitled to claim and recover a specified part of the unearned increase in the value of the land at the time of the transfer of the property, the value of such property as determined under rule 3 shall be reduced by the amount so liable to be claimed and recovered or by an amount equal to fifty per cent of the value of the property as so determined, whichever is less, as if the property had been transferred on the valuation date.

*Explanation.*— For the purpose of this rule, "unearned increase" means the difference between the value of such land on the valuation date as determined by the Government or such authority for the purpose of calculating such increase and the amount of the premium paid or payable to the Government or such authority for the lease of the land.

8. *Rule 3 not to apply in certain cases.*— Nothing contained in rule 3 shall apply,—

(a) where, having regard to the facts and circumstances of the case, the Assessing Officer, with the previous approval of the Deputy

Commissioner, is of opinion that it is not practicable to apply the provisions of the said rule to such a case; or

(b) where the difference between the unbuilt area and the specified area exceeds twenty per cent of the aggregate area; or

(c) where the property is constructed on leasehold land and the lease expires within a period not exceeding fifteen years from the relevant valuation date and the deed of lease does not give an option to the leasee for the renewal of the lease,

and in any case referred to in clause (a) or clause (b) or clause (c), the value of the property shall be determined in the manner laid down in rule 20.

### PART C

#### Shares in or debentures of companies

9. *Quoted shares and debentures of companies.*— The value of an equity share or a preference share in any company or a debenture of any company which is a quoted share or a quoted debenture shall be taken as the value quoted in respect of such share or debenture on the valuation date or where there is no such quotation on the valuation date, the quotation on the date closest to the valuation date and immediately preceding such date.

10. *Unquoted preference shares.*— (1) Subject to the provisions of sub-rule (2), the value of unquoted preference share in any company shall—

(a) where the preference share is issued before the valuation date at a rate of dividend of not less than eight per cent, be the paid-up value of such share; and

(b) where the preference share is issued before the valuation date at a rate of dividend of less than eight per cent, be the adjusted paid-up value of such share.

(2) Where no dividend has been paid in respect of an unquoted preference share by any company continuously for not less than three accounting years ending on the valuation date or, in a case where the accounting year of the company does not end on the valuation date, for not less than

three continuous accounting years ending on a date immediately before the valuation date, the paid-up value or, as the case may be, the adjusted paid-up value shall be reduced—

(a) in the case of a non-cumulative preference share, as indicated in the Table below:—

TABLE

Number of accounting years ending on the valuation date or, in a case where the accounting year does not end on the valuation date, the number of accounting years ending on a date immediately preceding the valuation date, for which no dividend has been paid		Rate of reduction
(1)	(2)	
Three years	10	per cent of the paid-up value or the adjusted paid-up value as the case may be;
Four years	20	—do—
Five years	30	—do—
Six years and above	40	—do—

(b) in the case of a cumulative preference share, by one half of the rates specified in the aforesaid Table.

*Explanation.*— For the purposes of this rule, "adjusted paid-up value", in relation to a preference share, means an amount which bears to the paid-up value of the preference share the same proportion as the stipulated rate of dividend [being the rate of dividend on the preference share specified in the terms of issue of such share, and in a case where such dividend is required to be increased under the provisions of section 3 of the Preference Shares (Regulation of Dividends) Act, 1960, the rate of dividend as so increased] on such share bears to the rate of eight per cent.

11. *Unquoted equity shares in companies other than investment companies.*— (1) The value of an unquoted equity share in any company, other than an investment company, shall be determined in the manner set out in sub-rule (2).

(2) The value of all the liabilities as shown in the balance-sheet of such company shall be deducted from the value of all its assets shown in that balance-sheet; the net amount so arrived at shall be divided by the total amount of its paid-up equity share capital as shown in the balance-sheet; the result multiplied by the paid-up value of each equity share shall be the break-up value of each unquoted equity share, and an amount equal to eighty per cent of the break-up value so determined shall be the value of the unquoted equity share for the purposes of this Act.

(3) For the purposes of sub-rule (2),—

(a) the following amounts shown as assets in the balance-sheet shall not be treated as assets, namely:—

(i) any amount paid as advance-tax under the Income-tax Act;

(ii) any amount shown in the balance-sheet including the debit balance of the profit and loss account or the profit and loss appropriation account which does not represent the value of any asset;

(b) the following amounts shown as liabilities in the balance-sheet shall not be treated as liabilities, namely:—

(i) the paid-up capital in respect of equity shares;

(ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the valuation date at a general body meeting of the company;

(iii) reserves, by whatever name called, other than those set apart towards depreciation;

(iv) credit balance of the profit and loss account;

(v) any amount representing provision for taxation, other than the amount referred to in sub-clause (i) of clause (a), to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;

(vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.

*Explanation.*— For the purposes of this rule, "balance-sheet", in relation to any company, means the balance-sheet of such company (including the Notes annexed thereto and forming part of the accounts) as drawn up on the valuation date and, where there is no balance-sheet, the balance-sheet drawn up on a date immediately preceding the valuation date, and, in the absence of both, the balance-sheet drawn up on a date immediately after the valuation date.

12. *Unquoted equity shares in investment companies.*— (1) Subject to rule 13, the value of an unquoted equity share in an investment company shall be determined in the manner specified in sub-rule (2).

(2) The value of all the liabilities as shown in the balance-sheet of such company shall be deducted from the value of all its assets shown in that balance-sheet; the net amount so arrived at shall be divided by the total paid-up equity share capital of the company as shown in the balance-sheet, and the result multiplied by the paid-up value of each equity share shall be the value of the unquoted equity share in that investment company for the purposes of this Act.

(3) For the purposes of sub-rule (2), the value of an asset disclosed in the balance-sheet of the company shall be taken to be its value determined in accordance with the rules as applicable to that particular asset and, in the absence of any such rule, the value of such asset shall be its value as determined under rule 20.

(4) For the purposes of this rule,—

(a) "balance-sheet" has the same meaning as in rule 11;

(b) the amounts referred to in sub-rule (3) of rule 11 shall not be treated as assets or liabilities.

(5) For the purpose of facilitating the valuation of unquoted equity shares under this rule and rule 13, the company concerned shall have such valuation made by its auditors appointed under section 224 of the Companies Act, 1956, 1 of 1956.

and a certificate of the auditors relating to such valuation in the prescribed form shall be furnished to the Assessing Officer in the case of the company; and the valuation made by the auditors shall be taken into account in the assessments of the shareholders of the company.

13. *Unquoted equity shares in interlocked companies.*— (1) The value of an unquoted equity share in one of the two interlocked companies held by the other interlocked company for the purposes of rule 12 shall be equal to the paid-up value of such share or the value determined under sub-rule (2), whichever is higher.

(2) For the purpose of sub-rule (1), the aggregate value of all the equity shares in an interlocked company shall be arrived at by multiplying the maintainable profits of such company by—

(a) the fraction  $\frac{100}{8.5}$ , in a case where the gross total income of the company consists, to the extent of not less than 51 per cent of income chargeable under the head "Income from house property"; or

(b) the fraction  $\frac{100}{10}$ , in the case of any other interlocked company,

and the resultant amount divided by the number of such equity shares shall be the value of such an equity share in such company.

(3) The maintainable profits of the company, for the purpose of sub-rule (2), shall be computed in the following manner, namely:—

(a) the book profits of the company for the five accounting years of the company immediately preceding the valuation date shall first be ascertained;

(b) adjustments shall be made to the book profits for each of the said five years for all non-recurring and extraordinary items of income and expenditure and losses;

(c) adjustments shall be made to the book profits for expenditure which is not of a revenue nature but is debited in the accounts and for receipts which are in the nature of revenue receipts but are not accounted for in the profit and loss account;

(d) any development rebate or investment allowance debited in the books of account shall be added back to the book profits;

(e) the tax liability of the company on the book profits, arrived at after the adjustments at items (a), (b), (c) and (d), shall be deducted from such book profits;

(f) amounts required for paying dividends on preference shares or shares with prior rights shall be deducted from such book profits;

(g) the aggregate of the book profits for the five accounting years so arrived at, divided by 5, shall be the maintainable profits of the company.

*Explanation.*— For the purposes of this rule, "interlocked companies" means any two investment companies each of which holds shares in the other company.

#### PART D

##### Assets of business

14. *Global valuation of assets of business.*—

(1) Where the assessee is carrying on a business for which accounts are maintained by him regularly, the net value of the assets of the business as a whole, having regard to the balance-sheet of such business on the valuation date after adjustments specified in sub-rule (2) shall be taken as the value of such assets for the purposes of this Act.

(2) For the purposes of sub-rule (1)—

(a) the value of any asset as disclosed in the balance-sheet shall be taken to be,—

(i) in the case of an asset on which depreciation is admissible, its written-down value;

(ii) in the case of an asset on which no depreciation is admissible, its book value;

(iii) in the case of closing stock its value adopted for the purposes of assessment under the Income-tax Act for the previous year relevant to the corresponding assessment year;

(b) where the value of any of the assets referred to in clause (a), determined in accordance with the provisions of this Schedule as applicable to that particular asset or if there are no such provisions, determined in accordance with rule 20, exceeds the value arrived at in accordance with clause (a) by more than 20 per cent, then the higher value shall be taken to be the value of that asset;

(c) the value of an asset not disclosed in the balance-sheet, shall be taken to be the value determined in accordance with the provisions of this Schedule as applicable to that asset;

(d) the value of the following assets which are disclosed in the balance-sheet shall not be taken into account, namely:—

(i) any amount paid as advance tax under the Income-tax Act;

(ii) the debt due to the assessee according to the balance-sheet or part thereof which has been allowed as a deduction under clause (vii) of sub-section (1) of section 36 of the Income-tax Act, for the purposes of assessment for the previous year relevant to the corresponding assessment year under that Act;

(iii) the value of any asset in respect of which wealth-tax is not payable under this Act;

(iv) any amount shown in the balance-sheet including the debit balance in the profit and loss account or profit and loss appropriation account which does not represent the value of any asset;

(v) any asset shown in the balance-sheet not really pertaining to the business;

(e) the following amounts shown as liabilities in the balance-sheet shall not be taken into account, namely:—

(i) capital employed in the business other than that attributable to borrowed money;

(ii) reserves by whatever name called;

(iii) any provision made for meeting any future or contingent liability;

(iv) any liability shown in the balance-sheet not really pertaining to the business;

(v) any debt owed by the assessee to the extent to which it has been specifically utilised for acquiring an asset in respect of which wealth-tax is not payable under this Act;

Provided that where it is not possible to calculate the amount of debt so utilised, it shall be taken as the amount which bears the same proportion to the total of the debts owed by the assessee as the value of that asset bears to the total value of the assets of the business.

*Explanation.*— Provision for any purpose other than taxation shall be treated as a reserve.

#### PART E

##### Interest in firm or association of persons

15. *Valuation of interest in firm or association of persons.*— The value of the interest of a person in a firm of which he is a partner or in an association of persons of which he is a member shall be determined in the manner provided in rule 16.

16. *Computation of net wealth of the firm or association and its allocation amongst the partners or members.*— The net wealth of the firm or association of persons on the valuation date shall first be determined as if it were the assessee and, thereafter,—

(i) that portion of the net wealth of the firm or association as is equal to the amount of its capital shall be allocated among the partners or members in the proportion in which capital has been contributed by them;

(ii) the residue of the net wealth of the firm or association shall be allocated amongst the partners or members in accordance with the agreement of partnership or association for the distribution of assets in the event of dissolution of the firm or association or, in the absence of such agreement, in the proportion in which the partners or members are entitled to share the profits,

and the sum total of amounts so allocated to a partner or member under clause (i) and clause (ii) shall be treated as the value of the interest of that partner or member in the firm or association:

Provided that in determining the net wealth of the firm or association for the purposes of this rule, no account shall be taken of the exemptions in sub-sections (1) and (1A) of section 5.

*Explanation.*— For the purposes of this rule,—

(a) where the net wealth of the firm or association computed in accordance with this rule includes the value of any assets located outside India, the value of the interest of any partner or member in the assets located in India shall be determined having regard to the proportion which the value of assets located in India diminished by the debts relating to

those assets bears to the net wealth of the firm or association;

(b) where the net wealth of the firm or association computed in accordance with this rule includes the value of any assets which are exempt from inclusion in the net wealth under sub-sections (1) and (1A) of section 5, the value of the interest of a partner or member shall be deemed to include the value of his proportionate share in the said assets and, the provisions of sub-sections (1) and (1A) of section 5 shall apply to him accordingly;

(c) where the net wealth of the firm or association computed in accordance with this rule includes the value of any assets referred to in sub-section (2) of section 5, the value of the interest of a partner or member shall be deemed to include the value of his proportionate share in the said assets, and the provisions of sub-section (2) of section 5 shall apply to him accordingly.

#### PART F

##### Life Interest

17. *Valuation of life interest.*— (1) For the purposes of sub-section (1) of section 7, the value of the life interest of an assessee shall be arrived at by multiplying the average annual income that accrued to the assessee from the life interest by the fraction  $\frac{i}{P+d}$  minus 1, where 'P' represents the annual premium for a whole life insurance without profits on the life of the life tenant for unit sum assured as specified in the Appendix to these rules, and 'd' is equal to  $\frac{i}{1+i}$ , 'i' being the rate of interest.

*Explanation.*— In this rule,—

(a) "life tenant" means a person for the duration of whose life the life interest is to subsist;

(b) "average annual income" means the average of the gross income derived by the assessee from the life interest during each year of the period ending on the valuation date, reduced by the average of the expenses incurred on the collection of such income in each of those years:

Provided that the amount of the reduction for such expenses shall, in no case, exceed five per cent of the average of the annual gross income:

Provided further that in case the income so derived is for a period exceeding three years,

only that income derived during the three years ending on the valuation date shall be taken into account;

(c) the rate of interest shall be  $6\frac{1}{2}$  per cent per annum.

(2) Notwithstanding anything contained in sub-rule (1),—

(a) the Assessing Officer may, if he is of the opinion that in the case of the life tenant, a life insurance company would not take the risk of insuring his life at the normal premium rates in force but would demand a higher premium, vary the valuation suitably;

(b) the value of the life interest so determined shall, in no case, exceed the value as on the valuation date as determined under this Schedule, of the corpus of the trust from which the life interest is derived.

#### PART 'G'

##### Jewellery

18. *Valuation of jewellery.*— The value of jewellery shall be—

(a) where the value declared by the assessee in the return of net wealth does not exceed rupees five lakhs, and the return is supported by a statement in the prescribed form, the value so declared in the return;

(b) in any other case, subject to rule 19, the price which in the opinion of the Valuation Officer, on a reference made to him under section 16A, the jewellery would fetch if sold in the open market on the valuation date.

19. *Adjustment in value of jewellery for subsequent assessment years.*— The value of any jewellery determined in accordance with clause (b) of rule 18 for any assessment year (hereinafter referred to as the first assessment year), shall be taken to be the value of such jewellery for the subsequent four assessment years, subject to the following adjustments, namely:—

(a) where the jewellery includes gold or silver or any alloy containing gold or silver, the value of such gold or silver or such alloy as on the valuation date relevant to the concerned subsequent assessment year shall be substituted for the value of such gold or silver or alloy on the valuation date relevant to the first assessment year;

(b) where any jewellery or part of jewellery is sold or otherwise disposed of by the assessee, or any jewellery or part of jewellery is acquired by him, on or before the valuation date relevant to the concerned subsequent year, the value of the jewellery determined for the first assessment year shall be reduced or increased, as the case may be, and the value as so reduced or increased shall be the value of the jewellery for such subsequent assessment year.

## PART H

## Residuary

20. *Valuation of assets in other cases.*— (1) The value of any asset, other than cash, being an asset which is not covered by rules 3 to 19, for the purposes of this Act, shall be estimated to be the price which, in the opinion of the Assessing Officer, it would fetch if sold in the open market on the valuation date.

(2) Notwithstanding anything contained in sub-rule (1), where the valuation of any asset referred to in that sub-rule is referred by the Assessing Officer to the Valuation Officer under section 16A, the value of such asset shall be estimated to be the price which, in the opinion of the Valuation Officer, it would fetch if sold in the open market on the valuation date.

(3) Where the value of any asset cannot be estimated under this rule because it is not saleable in the open market, the value shall be determined in accordance with such guidelines or principles as may be specified by the Board from time to time by general or special order.

21. *Restrictive covenants to be ignored in determining market value.*— For the removal of doubts, it is hereby declared that the price or other consideration for which any property may be acquired by or transferred to any person under the terms of a deed of trust or through or under any restrictive covenant in any instrument of transfer shall be ignored for the purposes of determining under any provision of this Schedule, the price such property would fetch if sold in the open market on the valuation date.

## [APPENDIX

(See rule 17)

Table of ( $\frac{1}{P+d}$  minus 1)

Age nearer birth-day	Premium for unit sum assured	( $\frac{1}{P+d} - 1$ ) Value of life interest of Rupee 1 per annum at 6½% rate of interest
1	2	3
0	0.02906	10.100
1	0.01590	11.999
2	0.01295	12.517
3	0.01162	12.765
4	0.01095	12.893
5	0.01065	12.951
6	0.01058	12.965
7	0.01063	12.955
8	0.01076	12.930
9	0.01095	12.893
10	0.01117	12.850
11	0.01142	12.803
12	0.01169	12.751
13	0.01197	12.699
14	0.01226	12.644
15	0.01257	12.587
16	0.01286	12.534
17	0.01319	12.473
18	0.01350	12.417
19	0.01387	12.351
20	0.01431	12.273
21	0.01469	12.207
22	0.01512	12.132
23	0.01556	12.057
24	0.01606	11.972
25	0.01656	11.888
26	0.01706	11.806
27	0.01762	11.715
28	0.01825	11.614
29	0.01894	11.505
30	0.01962	11.399
31	0.02037	11.285
32	0.02112	11.173
33	0.02194	11.053
34	0.02281	10.927
35	0.02369	10.804
36	0.02462	10.675
37	0.02562	10.541

	1	2	3
38	...	0.02669	10.400
39	...	0.02787	10.249
40	...	0.02912	10.093
41	...	0.03044	9.932
42	...	0.03181	9.771
43	...	0.03325	9.607
44	...	0.03475	9.441
45	...	0.03637	9.267
46	...	0.03806	9.092
47	...	0.03987	8.911
48	...	0.04181	8.724
49	...	0.04387	8.533
50	...	0.04612	8.333
51	...	0.04850	8.130
52	...	0.05100	7.926
53	...	0.05362	7.722
54	...	0.05637	7.518
55	...	0.05931	7.310
56	...	0.06244	7.099
57	...	0.06575	6.888
58	...	0.06925	6.676
59	...	0.07294	6.464
60	...	0.07681	6.255
61	...	0.08167	6.008
62	...	0.08589	5.806
63	...	0.09025	5.610
64	...	0.09475	5.419
65	...	0.09938	5.234
66	...	0.10415	5.054
67	...	0.10907	4.879
68	...	0.11414	4.709
69	...	0.11938	4.543
70	...	0.12483	4.380
71	...	0.13054	4.220
72	...	0.13652	4.062
73	...	0.14278	3.907
74	...	0.14936	3.753
75	...	0.15627	3.602
76	...	0.16356	3.453
77	...	0.17125	3.305
78	...	0.17937	3.160
79	...	0.18796	3.016
80	...	0.19706	2.875]

## CHAPTER IV

## Amendments to the Gift-Tax Act, 1958

79. *Amendment of section 3.*— In section 3 of the Gift-tax Act, 1958 18 of 1958. (hereafter in this Chapter referred to as the Gift-tax Act), in sub-section (1), for the words "the Schedule", the word and figure "Schedule I" shall be substituted.

80. *Amendment of section 5.*— In section 5 of the Gift-tax Act, in sub-section (1), after clause (iiid), the following clause shall be inserted, namely:—

'(iiie) being an individual who is a non-resident Indian, to any relative, of property in the form of the bonds specified under sub-clause (iid) of clause (15) of section 10 of the Income-tax Act:

Provided that the exemption conferred by this clause shall be available only if the gift of such bonds is made after a period of three years from the date of their purchase:

Provided further that where an individual, who is a non-resident Indian in any previous year in which the bonds are acquired, becomes a resident in India in any subsequent year, the provisions of this clause shall apply in respect of the gifts of property referred to in this clause in such subsequent year or any year thereafter.

*Explanation.*— For the purposes of this clause, the expressions—

(a) "relative" shall have the meaning assigned to it in clause (41) of section 2 of the Income-tax Act;

(b) "non-resident Indian" shall have the meaning assigned to it in clause (e) of section 115C of the Income-tax Act;.

81. *Substitution of new section for section 6.*— For section 6 of the Gift-tax Act, the following section shall be substituted, namely:—

"6. *Value of gifts, how determined.*— (1) Subject to the provisions of sub-section (2), the value of any property, other than cash, transferred by way of gift shall, for the purpose of this Act, be its value as on the date on which the gift was made and shall be determined in the manner laid down in Schedule II.

(2) Where a person makes a gift which is not revocable for a specified period, the value of the property gifted shall be the capitalised value of the income from such property during the period for which the gift is not revocable."

82. *Amendment of section 10.*— In section 10 of the Gift-tax Act [as substituted by section 164 of the Direct Tax Laws (Amendment) Act, 1987], in 4 of 1988. sub-section (2), in clause (5), for the brackets and figure "(5)", the brackets



and figure "(4)" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988.

83. *Amendment of section 15.*— In section 15 of the Gift-tax Act [as substituted by section 170 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1), in clause (a), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that an intimation for any tax or interest due under this clause shall not be sent after the expiry of two years from the end of the assessment year in which the gifts were first assessable.";

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

'(1A) (a) Where in the case of any person, the taxable gift, as a result of the adjustments made under the proviso to clause (a) of sub-section (1), exceeds the taxable gift declared in the return by any amount, the Assessing Officer shall,—

(i) further increase the amount of tax payable under sub-section (1) by an additional gift-tax calculated at the rate of twenty per cent of the tax payable on such excess amount and specify the additional gift-tax in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1);

(ii) where any refund is due under sub-section (1), reduce the amount of such refund by an amount equivalent to the additional gift-tax calculated under sub-clause (i).

(b) Where as a result of an order under section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount on which additional gift-tax is payable under clause (a) has been increased or reduced, as the case may be, the additional gift-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional gift-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand under section 31;

(ii) in a case where the additional gift-tax is reduced, the excess amount paid, if any, shall be refunded.

*Explanation.*— For the purposes of this sub-section, "tax payable on such excess amount" means the difference between the tax on the taxable gift and the tax that would have been chargeable had such taxable gift been reduced by the amount of adjustments.';

(c) in sub-section (6), in the opening portion, after the words "under this Act," the words and figures "where under the provisions of section 6 read with Schedule II, the fair market value of any property transferred by way of gift is to be taken into account in such assessment," shall be inserted.

84. *Amendment of section 16.*— In section 16 of the Gift-tax Act, in sub-section (1) [as substituted by clause (a) of section 171 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) for the words ", for reasons to be recorded, by him in writing, is of the opinion", the words "has reasons to believe" shall be substituted;

(b) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the Assessing Officer shall, before issuing any notice under this sub-section, record his reasons for doing so."

85. *Amendment of section 16B.*— In section 16B of the Gift-tax Act [as inserted by section 173 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1),—

(i) after the words "taxable gifts as determined", the words, brackets and figures "under sub-section (1) of section 15 or" shall be inserted;

(ii) for *Explanation 1*, the following *Explanation* shall be substituted, namely:—

'*Explanation 1.*— In this sub-section, "tax payable on the taxable gifts as determined under sub-section (1) of section 15" shall not include the additional gift-tax, if any, payable under section 15.';

(iii) after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

'*Explanation 3.*— In this sub-section, "tax payable on the taxable gifts as

determined under sub-section (1) of section 15 or on regular assessment" shall, for the purposes of computing the interest payable under section 14B, be deemed to be tax payable on the taxable gifts as declared in the return.;

(b) in sub-section (3),—

(i) after the words, brackets and figures "under sub-section (1) of section 16 issued", the words, brackets and figures "after the determination of taxable gifts under sub-section (1) of section 15 or" shall be inserted;

(ii) after the words "taxable gifts as determined", the words, brackets and figures "under sub-section (1) of section 15 or" shall be inserted;

(iii) the *Explanation* shall be omitted.

86. *Amendment of section 17.*— In section 17 of the Gift-tax Act [as it stood immediately before its substitution by section 174 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(a) in sub-section (1),—

(i) clause (a) shall be omitted;

(ii) clause (i) shall be omitted;

(iii) for clause (ii), the following clause shall be substituted, namely:—

"(ii) in the cases referred to in clause (b), in addition to the amount of gift-tax payable by him, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure.;"

(iv) for the proviso, the following proviso shall be substituted, namely:—

"Provided that in the cases referred to in clause (b), no penalty shall be imposable if the person proves that there was a reasonable cause for the failure referred to in that clause.;"

(v) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*— Where any adjustment is made in the taxable gifts declared in

the return under the proviso to clause (a) of sub-section (1) of section 15 and additional gift-tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustments so made.;"

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) No order imposing a penalty under sub-section (1) shall be made,—

(i) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(ii) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.;"

(c) after sub-section (4), the following sub-sections shall be inserted, namely:—

"(5) No order imposing a penalty under this section shall be passed—

(i) in a case where the assessment to which the proceedings for imposition of penalty relate is the subject-matter of an appeal to the Deputy Commissioner (Appeals) or Commissioner (Appeals) under section 22 or an appeal to the Appellate Tribunal under sub-section (2) of section 23, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever is later;

(ii) in a case where the relevant assessment is the subject-matter of revision under sub-section (2) of section 24, after the expiry of six months from the end of the month in which such order of revision is passed;

(iii) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been

initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

*Explanation.*— In computing the period of limitation for the purposes of this section,—

(i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 38; and

(ii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.

(6) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

87. *Substitution of new section for section 17A.*— For section 17A of the Gift-tax Act [as it stood immediately before its substitution by section 174 of the Direct Tax Laws (Amendment) Act, 1987], the following section shall be 4 of 1988. substituted, namely:—

‘17A. *Penalty for failure to answer questions, sign statements, furnish information, allow inspection, etc.*— (1) If a person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a gift-tax authority in the exercise of his powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which a gift-tax authority may legally require him to sign; or

(c) to whom a summons is issued under sub-section (1) of section 36, either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure:

Provided that no penalty shall be imposable under clause (c) if the person proves that there was reasonable cause for the said failure.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 37, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues:

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed,—

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a gift-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such gift-tax authority;

(b) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any gift-tax authority referred to in sub-section (3) unless the person on whom penalty is proposed to be imposed has been heard or has been given a reasonable opportunity of being heard in the matter by such authority.

*Explanation.*— In this section, “gift-tax authority” includes a Director General, Director, Deputy Director, Assistant Director or Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in sub-section (1) of section 36.’. 5 of 1908.

88. *Amendment of section 22.*— In section 22 of the Gift-tax Act [as amended by section 176 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(i) in sub-section (1), in clause (d), the words, figures and letters “as it

stood immediately before the 1st day of April, 1989 or under section 17 as amended by the Direct Tax Laws (Amendment) Act, 1987" occurring at 4 of 1988. the end shall be omitted;

(ii) in sub-section (1A), for clause (c), the following clause shall be substituted, namely:—

"(c) objecting to any penalty imposed under sub-section (1) of section 17 with the previous approval of the Deputy Commissioner as specified in sub-section (3) of that section;"

89. *Amendment of section 25.*— In section 25 of the Gift-tax Act, in sub-section (1), after the word and figures "section 24", the words, figures and letter "or an order passed by the Director General or Director under section 17A" shall be inserted.

90. *Amendment of section 33A.*— In section 33A of the Gift-tax Act,—

(a) in sub-section (1), in the proviso [as inserted by clause (i) of section 180 of the Direct Tax Laws (Amendment) Act, 1987], in clause (b), 4 of 1988. for the words "total income", the words "taxable gifts" shall be substituted;

(b) in sub-section (4B) [as inserted by section 180 of the Direct Tax Laws (Amendment) Act, 1987],— 4 of 1988.

(i) in clause (a), for the words "Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the assessee", the words "Where refund of any amount becomes due to the assessee under this Act," shall be substituted;

(ii) in clause (c), after the words "an order under", the words, brackets and figures "sub-section (3) or sub-section (5) of section 15 or" shall be inserted.

91. *Amendment of section 34.*— In section 34 of the Gift-tax Act [as amended by section 186 of the Direct Tax Laws (Amendment) Act, 1987], in 4 of 1988. sub-section (1), in clause (c), the words, figures and letter "or section 22A" shall be omitted.

92. *Insertion of new section 35E.*— After section 35D of the Gift-tax Act, the following section shall be inserted, namely:—

"35E. *Proof of entries in records or documents.*— Entries in the records or other documents in the custody of a gift-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Act, and all such entries may be proved either by the production of the records or other documents in the custody of the gift-tax authority containing such entries, or by the production of a copy of the entries certified by the gift-tax authority having custody of the records or other documents under its signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody."

93. *Amendment of section 45.*— In section 45 of the Gift-tax Act, for *Explanations 1 and 2* [as they stood immediately before their substitution by section 184 of the Direct Tax Laws (Amendment) Act, 1987], the following 4 of 1988. *Explanation* shall be substituted, namely:—

'*Explanation 1.*— For the purposes of clause (b), the term "amalgamation" shall have the meaning assigned to it in clause (1B) of section 2 of the Income-tax Act.'

94. *Insertion of new Schedule II.*— In the Gift-tax Act, the existing Schedule shall be renumbered as Schedule I and after Schedule I as so renumbered, the following Schedule shall be inserted, namely:—

## "SCHEDULE II

[See Section 6(1)]

Rules for determining the value of property gifted

*Value of gifted property, how to be determined.*— The value of any property, other than cash, transferred by way of gift shall, for the purposes of this Act, be determined in accordance with the provisions of Schedule III to the Wealth-tax Act, which shall apply subject to the following modifications, namely:—

In the said Schedule,—

(a) references by whatever form of words to the Wealth-tax Act shall be construed as references to this Act;

(b) in rule 5, the reference to the year ending on the valuation date shall be construed as a reference to the previous year as defined in this Act;

(c) save as provided in clause (b), references to the valuation date shall be construed as references to the date on which gift was made;

(d) reference to section 7 of the Wealth-tax Act shall be construed as references to section 6 of this Act;

(e) references to section 16A of the Wealth-tax Act shall be construed as references to sub-section (6) of section 15 of this Act."

#### CHAPTER V

##### Amendments to the Direct Tax Laws (Amendment) Act, 1987

95. Amendment of Act 4 of 1988.— In the Direct Tax Laws (Amendment) Act, 1987,—

(a) in section 3,—

(1) clauses (p) and (s) shall be omitted;

(2) in clause (r), after the words "shall be substituted", the words, figures and letters "and shall be deemed to have been substituted with effect from the 1st day of April, 1988" shall be inserted;

(b) in section 6, clauses (a), (k) and (l) shall be omitted;

(c) sections 7 and 8 shall be omitted;

(d) in section 9, clause (a) shall be omitted;

(e) in section 10, for the figures, letters and word "35, 35B, 35C, 35CC, 35CCA and 35CCB", the figures, letters and word "35B, 35C and 35CC" shall be substituted;

(f) in section 13, clause (ii) shall be omitted;

(g) sections 16, 17, 18, 19, 20, 21, 24, 26 and 29 shall be omitted;

(h) in section 25, clauses (a), (b), (d) and (e) shall be omitted;

(i) in section 61,—

(1) clause (a) shall be omitted;

(2) in clause (c), the brackets, figure and letter "(5B)," shall be omitted;

(j) sections 62, 63, 66, 67, 68, 69, 71, 72, 100, 101 and 122 shall be omitted;

(k) in section 64,—

(1) clause (a) shall be omitted;

(2) in clause (b), the words, brackets and figures "sub-sections (2) and (3), and" shall be omitted;

(l) in section 88, clause (b) shall be omitted;

(m) section 106 shall be omitted;

(n) in section 124,—

(1) clauses (3), (6), (8), (9), (10), (11), (13), (14), (16), (19) and (22) shall be omitted;

(2) in clause (5), sub-clause (i) shall be omitted;

(3) in clause (12), for the words "Income-tax Officer", the words "Assessing Officer" shall be substituted;

(4) in clause (24), for the words "Income-tax Officer", the words "Assessing Officer" shall be substituted;

(o) in section 126, clauses (5), (8), (11), (13), (23) and (28) shall be omitted;

(p) sections 142, 143, 144, 147, 174, 175 and 177 shall be omitted;

(q) in section 149, in clause (a), after the words "shall be substituted", the words, figures and letters "and shall be deemed to have been substituted with effect from the 1st day of April, 1988" shall be inserted;

(r) in section 160, clauses (1) and (2) shall be omitted;

(s) in section 179, in clause (a), after the words "shall be substituted", the words, figures and letters "and shall be deemed to have been substituted with effect from the 1st day of April, 1988" shall be inserted;

(t) in section 184, clauses (c) and (d) shall be omitted;

(u) in section 186, clause (2) shall be omitted.

## Department of Urban Development

Directorate of Municipal Administration

**Notification**

13-2-UDD/MUN-ENG/RR/2002/1372

Read: Notification No. 13-2-UDD/MUN-ENG/  
/RR/2002, dated 3-7-2002.

Whereas draft rules, namely, the Goa Municipalities (Common Cadre of Municipal Engineers) Recruitment Rules, 2002 were pre-published as required by sub-section (3) of section 306 of the Goa Municipalities Act, 1968 (Act 7 of 1969), under Notification No. 13-2-UDD/MUN-ENG/RR/2002 dated 3-7-2002, of the Department of Urban Development, in the Official Gazette, Series I, No.15 dated 11-7-2002, inviting objections and suggestions from all persons likely to be affected thereby before the expiry of fifteen days from the date of publication of the said notification in the Official Gazette;

And Whereas the said Gazette was made available to the public on 11th July, 2002;

And Whereas no objections and suggestions have been received from the public on the said draft rules, by the Government within the said period of fifteen days.

Now, therefore, in exercise of the powers conferred by section 306 read with sub-sections (3) and (6) of section 72 of the Goa Municipalities Act, 1968 (Act 7 of 1969), and all other powers enabling it in this behalf, and in supersession of the Goa Municipalities (Common Cadre of Municipal Engineers) Recruitment Rules, 1988, the Government of Goa, hereby makes the following rules, namely:—

1. *Short title, application and commencement.*—  
(1) These rules may be called the Goa Municipalities (Common Cadre of Municipal Engineers) Recruitment Rules, 2002.

(2) They shall apply to the posts specified in column (1) of the Schedule to these rules (hereinafter referred to as "said Schedule").

(3) They shall come into force at once.

2. *Definitions.*— In these rules, unless the context otherwise requires,—

(a) "Act" means the Goa Municipalities Act, 1968 (Act 7 of 1969);

(b) "Common Cadre" means the cadre constituted under item (b) of sub-section (5) of section 72 of the Act;

(c) "Municipal Engineer Grade I" means a Municipal Engineer equivalent to the rank of Executive Engineer of the Public Works Department;

(d) "Municipal Engineer Grade II" means a Municipal Engineer equivalent to the rank of Assistant Engineer of the Public Works Department;

(e) "Municipal Engineer Grade III" means a Municipal Engineer equivalent to the rank of Junior Engineer of the Public Works Department.

3. *Number, classification and scales of pay.*— The number of posts, classification of the said posts and the scales of pay attached thereto shall be as specified in columns (2) to (4) of the said Schedule:

4. *Method of recruitment, age limit and other qualifications.*— The method of recruitment to the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns (5) to (12) of the said Schedule.

5. *Disqualification.*— No person who has entered into or contracted a marriage with a person having a spouse living or who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the service:

Provided that the Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

6. *Power to relax.*— Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

7. *Saving.*— Nothing in these rules shall affect reservation, relaxation of age limit and other concessions required to be provided for Scheduled Castes, and other special categories of persons in accordance with the orders issued by the Government from time to time in that regard.

By order and in the name of the Governor of Goa.

K. N. S. Nair, Director of Municipal Administration/ex officio Joint Secretary.

Panaji, 21st October, 2002.

SCHEDULE

Name of the post	No. of posts	Classification	Scale of pay	Whether selection post or non-selection post	Age limit for direct recruits	Educational and other qualifications required for direct recruits	Whether age & educational qualifications prescribed for the direct recruits will apply in the case of promotees	Period of probation, if any	Method of recruitment, whether by direct recruitment or promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods	In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer is to be made	If a D. P. C./D.S.C. exists, what is its composition
1	2	3	4	5	6	7	8	9	10	11	12
1. Municipal (2002) Engineer, Grade I. dependent on workload.	3	Class I Gazetted).	Rs. 10000-325-15200	Selection.	N. A.	N. A.	N. A.	2 years.	By promotion, failing which by transfer on deputation.	Promotion from Municipal Engineer, Grade II having degree in Civil Engineering or equivalent and 8 years service in the grade failing which by transfer on deputation of officers of the rank of Executive Engineer (Civil) from Government Departments. (Period of deputation ordinarily not exceeding 3 years).	Class I D.P.C. consisting of Secretary (Urban Development) as Chairman, Chief Engineer (PWD) and Director of Municipal Administration as members.
2. Municipal Engineer, Grade II.	8 (2002) Subject to variation dependent on workload.	Class II Gazetted).	Rs. 6500-200-10500	Selection.	N. A.	N. A.	N. A.	2 years.	Promotion, failing which by transfer on deputation.	Promotion from Municipal Engineer, Grade III with 5 years regular service in case of Engineer holding Degree in Civil Engineering, 8 years of regular service in case of an Engineer holding Diploma in Civil Engineering and 10 years of regular service in case of an Officer holding no such qualification in the posts in the scale of Rs. 4500-125-7000 and above, failing which, by transfer of a suitable Officer holding an analogous post in the Government.	—do—

1	2	3	4	5	6	7	8	9	10	11	12
3. Municipal Engi- neer, Grade III.	24 (2002) Subject to varia- tion de- pen- dent on work- load.	Group 'C', Non- Gazet- ted (Tech- nical).	Rs. 4500- -125- -7000.	N. A.	Not exceeding 40 years (Rela- xable for Government Servants in accordance with the orders or instructions issued by the Government).	<i>Essential:</i> 1. SSCE or equiva- lent. 2. Diploma in Civil Engineering. 3. Knowledge of Konkani. <i>Desirable:</i> Knowledge of Marathi.	N. A.	2 years.	50% by transfer on deputation failing which by Direct Recruitment and 50% by direct recruitment.	Transfer on deputation of Junior Engineer/Techni- cal Asstt. (Civil) with 3 years experience in Gov- ernment Department such as, Public Works Department, Water Resource Department, etc.	Director of Muni- cipal Administration as Chairman, Senior most Municipal Engineer Grade I and Under Secretary dealing with Municipal Administration as members.